

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2683

**Introduced by Committee on Judiciary (Feuer (Chair), Atkins,
Dickinson, Huber, and Wieckowski)**

March 12, 2012

An act to amend ~~Section 2204~~ Sections 2204, 8100, and 9052 of the Probate Code, relating to ~~guardianships~~ probate.

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, as amended, Committee on Judiciary. ~~Guardianships: venue.~~ Probate matters: guardianships: estates.

Existing law requires a creditor to file a claim against a decedent's estate before the later of 4 months after the date letters, as specified by other provisions of law, are first issued to a general personal representative or 60 days after the date notice of administration is mailed or personally delivered to the creditor. Existing law provides a form for a notice of petition to administer a decedent's estate, and for a notice of administration of a decedent's estate, and requires that notices for those purposes substantially comply with the statutory form.

This bill would revise those notice forms to state that a creditor must file a claim with the court and mail a copy to the personal representative appointed by the court within the later of either 4 months from the date of first issuance of letters to a general personal representative, as specified, or 60 days from the date of mailing or personal delivery of the notice, as specified.

Existing law establishes procedures for courts to follow regarding venue in the circumstance where a proceeding for the guardianship of the person of the minor is filed in one county, and a custody or visitation

proceeding has already been filed in one or more other counties, and provides for communications between the courts, as specified.

This bill would correct an erroneous cross-reference in these provisions.

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

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

1 SECTION 1. Section 2204 of the Probate Code is amended to
2 read:

3 2204. (a) If a proceeding for the guardianship of the person
4 of the minor is filed in one county and a custody or visitation
5 proceeding has already been filed in one or more other counties,
6 the following shall apply:

7 (1) If the guardianship proceeding is filed in a county where the
8 proposed ward and the proposed guardian have resided for six or
9 more consecutive months immediately prior to the commencement
10 of the proceeding, or, in the case of a minor less than six months
11 of age, since the minor’s birth, the court in that county is the proper
12 court to hear and determine the guardianship proceeding, unless
13 that court determines that the best interests of the minor require
14 that the proceeding be transferred to one of the other courts. A
15 period of temporary absence no longer than 30 days from the
16 county of the minor or the proposed guardian shall not be
17 considered an interruption of the six-month period.

18 (2) If the guardianship proceeding is filed in a county where the
19 proposed ward and the proposed guardian have resided for less
20 than six consecutive months immediately prior to the
21 commencement of the proceeding, or, in the case of a minor less
22 than six months of age, a period less than the minor’s life, the court
23 shall transfer the case to one of the other courts, unless the court
24 determines that the best interests of the minor require that the
25 guardianship proceeding be maintained in the court where it was
26 filed.

27 (3) If a petitioner or respondent in a custody or visitation
28 proceeding who is an authorized petitioner under Section 2212
29 petitions the court where the guardianship proceeding is filed for
30 transfer of the guardianship proceeding to the court where the
31 custody or visitation proceeding is on file at any time before the

1 appointment of a guardian, including a temporary guardian, the
2 provisions of this subdivision shall apply to the court's
3 determination of the petition for transfer. Except as provided in
4 this paragraph, the petition for transfer shall be determined as
5 provided in Sections 2212 to 2217, inclusive.

6 (b) The following shall apply concerning communications
7 between the courts:

8 (1) The court where the guardianship proceeding is commenced
9 shall communicate concerning the proceedings with each court
10 where a custody or visitation proceeding is on file prior to making
11 a determination authorized in subdivision (a), including a
12 determination of a petition to transfer.

13 (2) If a petitioner or respondent, who is authorized to petition
14 to transfer under Section 2212, petitions the court where the
15 guardianship proceeding is filed for transfer of the guardianship
16 after the appointment of a guardian, including a temporary
17 guardian, the court in the guardianship proceeding may
18 communicate with each court where a custody or visitation
19 proceeding is on file before determining the petition for transfer.

20 (3) If the court in the guardianship proceeding appoints a
21 guardian of the person of the minor, including a temporary
22 guardian, the court shall transmit a copy of the order appointing a
23 guardian to each court where a custody or visitation proceeding is
24 on file, and each of those courts shall file the order in the case file
25 for its custody or visitation proceeding.

26 (4) The provisions of subdivisions (b) to (e), inclusive, of
27 Section 3410 of the Family Code shall apply to communications
28 between courts under this subdivision.

29 (5) The Judicial Council shall, on or before January 1, 2013,
30 adopt rules of court to implement the provisions of this subdivision.

31 (c) For purposes of this section, "custody or visitation
32 proceeding" means a proceeding described in Section 3021 of the
33 Family Code that relates to the rights to custody or visitation of
34 the minor under Part 2 (commencing with Section 3020) of
35 Division 8 of the Family Code.

36 *SEC. 2. Section 8100 of the Probate Code is amended to read:*

37 8100. The notice of hearing of a petition for administration of
38 a decedent's estate, whether served under Article 2 (commencing
39 with Section 8110) or published under Article 3 (commencing
40 with Section 8120), shall state substantially as follows:

1 NOTICE OF PETITION TO ADMINISTER
2 ESTATE OF _____, ESTATE NO. _____

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4 To all heirs, beneficiaries, creditors, and contingent creditors of _____
5 and persons who may be otherwise interested in the will or estate, or both:

6 A petition has been filed by _____ in the Superior Court of California,
7 County of _____, requesting that _____ be appointed as personal
8 representative to administer the estate of _____ [and for probate of the
9 decedent’s will, which is available for examination in the court file].

10 [The petition requests authority to administer the estate under the Independent
11 Administration of Estates Act. This will avoid the need to obtain court approval
12 for many actions taken in connection with the estate. However, before taking
13 certain actions, the personal representative will be required to give notice to
14 interested persons unless they have waived notice or have consented to the
15 proposed action. The petition will be granted unless good cause is shown why
16 it should not be.]

17 The petition is set for hearing in Dept. No. _____
18 at _____
19 (Address)
20 on _____ at _____ .
21 (Date of hearing) (Time of hearing)

22
23 IF YOU OBJECT to the granting of the petition, you should
24 appear at the hearing and state your objections or file written
25 objections with the court before the hearing. Your appearance may
26 be in person or by your attorney.

27 IF YOU ARE A CREDITOR or a contingent creditor of the
28 deceased, you must file your claim with the court and mail a copy
29 to the personal representative appointed by the court within *the*
30 *later of either (1) four months from the date of first issuance of*
31 ~~letters as provided in Section 9100 of the California Probate Code.~~
32 ~~The time for filing claims will not expire before four months from~~
33 ~~the date of the hearing noticed above to a general personal~~
34 *representative, as defined in subdivision (b) of Section 58 of the*
35 *California Probate Code, or (2) 60 days from the date of mailing*
36 *or personal delivery of the notice to you under Section 9052 of the*
37 *California Probate Code.*

38 YOU MAY EXAMINE the file kept by the court. If you are
39 interested in the estate, you may request special notice of the filing
40 of an inventory and appraisal of estate assets or of any petition or

1 account as provided in Section 1250 of the California Probate
2 Code.

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(Name and address of petitioner or petitioner’s attorney)

SEC. 3. Section 9052 of the Probate Code is amended to read:
9052. The notice shall be in substantially the following form:

NOTICE OF ADMINISTRATION OF
ESTATE OF _____, DECEDENT

Notice to creditors:

Administration of the estate of _____ (deceased) has been commenced
by _____ (personal representative) in Estate No. _____ in the
Superior Court of California, County of _____. You must file your claim
with the court and mail or deliver a copy to the personal representative within
the last to occur of four months after _____ (the date letters were *first*
~~issued to the~~ *a general* personal representative, *as defined in subdivision (b)*
of Section 58 of the California Probate Code), or 60 days after the date this
notice was mailed to you or, in the case of personal delivery, 60 days after the
date this notice was delivered to you, ~~as provided in Section 9100 of the~~
~~California Probate Code~~, or you must petition to file a late claim as provided
in Section 9103 of the California Probate Code. Failure to file a claim with
the court and serve a copy of the claim on the personal representative will, in
most instances, invalidate your claim. A claim form may be obtained from
the court clerk. For your protection, you are encouraged to file your claim by
certified mail, with return receipt requested.

(Date of mailing this notice)

(Name and address of personal
representative or attorney)

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