**Assembly Bill No. 2683**

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Passed the Assembly May 14, 2012

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*Chief Clerk of the Assembly*

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Passed the Senate August 9, 2012

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*Secretary of the Senate*

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This bill was received by the Governor this _____ day of _____, 2012, at _____ o'clock ___M.

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*Private Secretary of the Governor*

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, Committee on Judiciary. 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.

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

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

2204. (a) If 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, the following shall apply:

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

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

(3) If a petitioner or respondent in a custody or visitation proceeding who is an authorized petitioner under Section 2212 petitions the court where the guardianship proceeding is filed for transfer of the guardianship proceeding to the court where the custody or visitation proceeding is on file at any time before the appointment of a guardian, including a temporary guardian, the provisions of this subdivision shall apply to the court's determination of the petition for transfer. Except as provided in this paragraph, the petition for transfer shall be determined as provided in Sections 2212 to 2217, inclusive.

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

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

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

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

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

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

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

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

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

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

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

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

[The petition requests authority to administer the estate under the Independent Administration of Estates Act. This will avoid the need to obtain court approval

for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. The petition will be granted unless good cause is shown why it should not be.]

The petition is set for hearing in Dept. No. _____ at _____ (Address) on _____ (Date of hearing) at _____ (Time of hearing).

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

IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court and mail a copy to the personal representative appointed by the court within the later of either (1) four months from the date of first issuance of letters to a general personal representative, as defined in subdivision (b) of Section 58 of the California Probate Code, or (2) 60 days from the date of mailing or personal delivery of the notice to you under Section 9052 of the California Probate Code.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may request special notice of the filing of an inventory and appraisal of estate assets or of any petition or account as provided in Section 1250 of the California Probate Code.

_____
(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 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,, 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.

| _____ | _____ |
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| (Date of mailing this notice) | (Name and address of personal representative or attorney) |

Approved _____, 2012

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*Governor*