

AMENDED IN SENATE MARCH 31, 2011

SENATE BILL

No. 651

Introduced by Senator Leno

(Coauthors: Senators De León, Pavley, and Yee)

*(Coauthors: Assembly Members Ammiano, Blumenfield, Chesbro,
Gordon, Huffman, Portantino, and Skinner)*

February 18, 2011

An act to amend Section 297 of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 651, as amended, Leno. Family law: *domestic partnerships.*

Existing law provides that 2 unmarried, unrelated adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring may establish a domestic partnership by filing a declaration with the Secretary of State if certain requirements are met, including that both persons have a common residence.

This bill would eliminate the requirement that domestic partners have a common residence.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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.

1 (b) A domestic partnership shall be established in California
2 when both persons file a Declaration of Domestic Partnership with
3 the Secretary of State pursuant to this division, and, at the time of
4 filing, all of the following requirements are met:

5 ~~(1) Both persons have a common residence.~~

6 ~~(2)~~

7 (1) Neither person is married to someone else or is a member
8 of another domestic partnership with someone else that has not
9 been terminated, dissolved, or adjudged a nullity.

10 ~~(3)~~

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

13 ~~(4)~~

14 (3) Both persons are at least 18 years of age.

15 ~~(5)~~

16 (4) Either of the following:

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

18 (B) One or both of the persons meet the eligibility criteria under
19 Title II of the Social Security Act as defined in 42 U.S.C. Section
20 402(a) for old-age insurance benefits or Title XVI of the Social
21 Security Act as defined in 42 U.S.C. Section 1381 for aged
22 individuals. Notwithstanding any other provision of this section,
23 persons of opposite sexes may not constitute a domestic partnership
24 unless one or both of the persons are over the age of 62.

25 ~~(6)~~

26 (5) Both persons are capable of consenting to the domestic
27 partnership.

28 (c) “Have a common residence” means that both domestic
29 partners share the same residence. It is not necessary that the legal
30 right to possess the common residence be in both of their names.
31 Two people have a common residence even if one or both have
32 additional residences. Domestic partners do not cease to have a
33 common residence if one leaves the common residence but intends
34 to return.

35 ~~SECTION 1. It is the intent of the Legislature to enact~~
36 ~~legislation to eliminate statutory differences between marriage and~~
37 ~~domestic partnerships to implement the holding of the California~~
38 ~~Supreme Court in Strauss v. Horton (2009) 46 Cal.4th 364, which~~

- 1 ~~made a narrow distinction between marriage and domestic~~
- 2 ~~partnerships based on the use of the term “marriage” only.~~

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