

AMENDED IN ASSEMBLY JUNE 22, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 31, 2011

**SENATE BILL**

**No. 651**

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**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

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An act to amend Section 297 of, *and to add Sections 297.1 and 298.7 to*, 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 *and that both persons are at least 18 years of age. Existing law authorizes 2 unmarried persons, not minors, who have been living together as husband and wife to obtain a confidential marriage license, as specified.*

This bill would eliminate the requirement that domestic partners have a common residence. *This bill would also permit a person who is under 18 years of age who otherwise meets the requirements for establishing a domestic partnership to do so upon obtaining a court order that provides that authority to the underage person. The bill would also provide for the consent of the underage person's parent or guardian,*

*except as specified, and would require that the court order and the written consent be filed with the court clerk and submitted to the Secretary of State with a Declaration of Domestic Partnership. The bill would also require the Secretary of State to establish a process by which 2 persons could enter into a confidential domestic partnership and maintain each confidential Declaration of Domestic Partnership, as specified, and permit the Secretary of State to charge a reasonable fee in this regard.*

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:  
10 (1) Neither person is married to someone else or is a member  
11 of another domestic partnership with someone else that has not  
12 been terminated, dissolved, or adjudged a nullity.  
13 (2) The two persons are not related by blood in a way that would  
14 prevent them from being married to each other in this state.  
15 (3) Both persons are at least 18 years of age, *except as provided*  
16 *in Section 297.1.*  
17 (4) Either of the following:  
18 (A) Both persons are members of the same sex.  
19 (B) One or both of the persons meet the eligibility criteria under  
20 Title II of the Social Security Act as defined in Section 402(a) of  
21 Title 42 of the United States Code for old-age insurance benefits  
22 or Title XVI of the Social Security Act as defined in Section 1381  
23 of Title 42 of the United States Code for aged individuals.  
24 Notwithstanding any other provision of this section, persons of  
25 opposite sexes may not constitute a domestic partnership unless  
26 one or both of the persons are over ~~the age of 62~~ 62 years of age.

1 (5) Both persons are capable of consenting to the domestic  
2 partnership.

3 *SEC. 2. Section 297.1 is added to the Family Code, to read:*

4 297.1. (a) A person under 18 years of age who, together with  
5 the person with whom he or she proposes to establish a domestic  
6 partnership, otherwise meets the requirements for a domestic  
7 partnership other than the requirement of being at least 18 years  
8 of age, is capable of consenting to and establishing a domestic  
9 partnership upon obtaining a court order granting permission to  
10 the underage person or persons to establish a domestic partnership.

11 (b) (1) The court order and written consent of the parents of  
12 each person under 18 years of age or of one of the parents or the  
13 guardian of each person under 18 years of age, except as provided  
14 in paragraph (2), shall be filed with the clerk of the court, and a  
15 certified copy of the order shall be filed with the Secretary of State  
16 with the Declaration of Domestic Partnership.

17 (2) If it appears to the satisfaction of the court by application  
18 of a person under 18 years of age that the person requires a written  
19 consent to establish a domestic partnership and that the minor has  
20 no parent or guardian, or has no parent or guardian capable of  
21 consenting, the court may make an order consenting to establishing  
22 the domestic partnership. The order shall be filed with the clerk  
23 of the court and a certified copy of the order shall be filed with  
24 the Secretary of State with the Declaration of Domestic  
25 Partnership.

26 *SEC. 3. Section 298.7 is added to the Family Code, to read:*

27 298.7. The Secretary of State shall establish a process by which  
28 two persons, who have been living together as domestic partners  
29 and who meet the requirements of paragraphs (1) to (5), inclusive,  
30 of subdivision (b) of Section 297, may enter into a confidential  
31 domestic partnership. This process shall do all of the following:

32 (a) Maintain each confidential Declaration of Domestic  
33 Partnership as a permanent record that is not open to public  
34 inspection except upon order of the court issued upon a showing  
35 of good cause.

36 (b) Authorize the Secretary of State to charge a reasonable fee  
37 to offset costs directly connected with maintaining confidentiality  
38 of a Declaration of Domestic Partnership.

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