

AMENDED IN ASSEMBLY APRIL 23, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1520**

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**Introduced by Assembly Member Gatto**

January 16, 2014

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An act to amend Section 15212 of the Probate Code, relating to guardians ad litem.

LEGISLATIVE COUNSEL'S DIGEST

AB 1520, as amended, Gatto. Guardians ad litem: animals.

Existing law establishes requirements for the establishment and termination of a trust for the care of an animal.

Existing law authorizes a court to appoint a guardian ad litem at any stage of a proceeding under the Probate Code to represent the interest of specified persons, if the court determines that representation of the interest otherwise would be inadequate.

This bill would authorize a court to appoint a guardian ad litem to represent the interest of an animal for which a trust has been established if the court determines that representation of the interest otherwise would be inadequate.

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 15212 of the Probate Code is amended  
2 to read:

3 15212. (a) Subject to the requirements of this section, a trust  
4 for the care of an animal is a trust for a lawful noncharitable  
5 purpose. Unless expressly provided in the trust, the trust terminates  
6 when no animal living on the date of the settlor’s death remains  
7 alive. The governing instrument of the animal trust shall be  
8 liberally construed to bring the trust within this section, to presume  
9 against the merely precatory or honorary nature of the disposition,  
10 and to carry out the general intent of the settlor. Extrinsic evidence  
11 is admissible in determining the settlor’s intent.

12 (b) A trust for the care of an animal is subject to the following  
13 requirements:

14 (1) Except as expressly provided otherwise in the trust  
15 instrument, the principal or income shall not be converted to the  
16 use of the trustee or to any use other than for the benefit of the  
17 animal.

18 (2) Upon termination of the trust, the trustee shall distribute the  
19 unexpended trust property in the following order:

20 (A) As directed in the trust instrument.

21 (B) If the trust was created in a nonresiduary clause in the  
22 settlor’s will or in a codicil to the settlor’s will, under the residuary  
23 clause in the settlor’s will.

24 (C) If the application of subparagraph (A) or (B) does not result  
25 in distribution of unexpended trust property, to the settlor’s heirs  
26 under Section 21114.

27 (3) For the purposes of Section 21110, the residuary clause  
28 described in subparagraph (B) of paragraph (2) shall be treated as  
29 creating a future interest under the terms of a trust.

30 (c) The intended use of the principal or income may be enforced  
31 by a person designated for that purpose in the trust instrument or,  
32 if none is designated, by a person appointed by a court. In addition  
33 to a person identified in subdivision (a) of Section 17200, any  
34 person interested in the welfare of the animal or any nonprofit  
35 charitable organization that has as its principal activity the care of  
36 animals may petition the court regarding the trust as provided in  
37 Chapter 3 (commencing with Section 17200) of Part 5.

1 (d) If a trustee is not designated or no designated or successor  
2 trustee is willing or able to serve, a court shall name a trustee. A  
3 court may order the transfer of the trust property to a  
4 court-appointed trustee, if it is required to ensure that the intended  
5 use is carried out and if a successor trustee is not designated in the  
6 trust instrument or if no designated successor trustee agrees to  
7 serve or is able to serve. A court may also make all other orders  
8 and determinations as it shall deem advisable to carry out the intent  
9 of the settlor and the purpose of this section.

10 (e) The accountings required by Section 16062 shall be provided  
11 to the beneficiaries who would be entitled to distribution if the  
12 animal were then deceased and to any nonprofit charitable  
13 corporation that has as its principal activity the care of animals  
14 and that has requested these accountings in writing. However, if  
15 the value of the assets in the trust does not exceed forty thousand  
16 dollars (\$40,000), no filing, report, registration, periodic  
17 accounting, separate maintenance of funds, appointment, or fee is  
18 required by reason of the existence of the fiduciary relationship  
19 of the trustee, unless ordered by the court or required by the trust  
20 instrument.

21 (f) Any beneficiary, any person designated by the trust  
22 instrument or the court to enforce the trust, or any nonprofit  
23 charitable corporation that has as its principal activity the care of  
24 animals may, upon reasonable request, inspect the animal, the  
25 premises where the animal is maintained, or the books and records  
26 of the trust.

27 (g) A trust governed by this section is not subject to termination  
28 pursuant to subdivision (b) of Section 15408.

29 (h) Section 15211 does not apply to a trust governed by this  
30 section.

31 (i) The court may, on its own motion or on request of the trustee  
32 ~~or other interested person~~ *any person or organization authorized*  
33 *to petition the court regarding the trust pursuant to subdivision*  
34 *(c)*, appoint a guardian ad litem to represent the interest of the  
35 animal if the court determines that representation of the interest  
36 otherwise would be inadequate. The reasonable expenses of the  
37 guardian ad litem, including compensation and attorney's fees,  
38 shall be determined by the court and paid as the court orders, either  
39 out of the trust or from another source as the court orders.

- 1 (j) For purposes of this section, “animal” means a domestic or
- 2 pet animal for the benefit of which a trust has been established.

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