

AMENDED IN SENATE MAY 23, 2014
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

Introduced by Assembly Member Gatto

January 16, 2014

An act to amend ~~Section~~ *Sections 1003 and 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 1003 of the Probate Code is amended to*
2 *read:*

3 1003. (a) The court may, on its own motion or on request of
4 a personal representative, guardian, conservator, trustee, or other
5 interested person, appoint a guardian ad litem at any stage of a
6 proceeding under this code to represent the interest of any of the
7 following persons, if the court determines that representation of
8 the interest otherwise would be inadequate:

- 9 (1) A minor.
- 10 (2) An incapacitated person.
- 11 (3) An unborn person.
- 12 (4) An unascertained person.
- 13 (5) A person whose identity or address is unknown.
- 14 (6) A designated class of persons who are not ascertained or are
15 not in being.

16 (b) *The court may, on its own motion or on request of a trustee*
17 *or other person or organization described in Section 15212,*
18 *appoint a guardian ad litem to represent the interest of an animal*
19 *for which a trust has been established, if the court determines that*
20 *representation of the interest otherwise would be inadequate.*

21 ~~(b)~~
22 (c) If not precluded by a conflict of interest, a guardian ad litem
23 may be appointed to represent several persons or interests.

24 ~~(e)~~
25 (d) The reasonable expenses of the guardian ad litem, including
26 compensation and attorney’s fees, shall be determined by the court
27 and paid as the court orders, either out of the property of the estate
28 involved or by the petitioner or from such other source as the court
29 orders.

30 **SECTION 1.**

31 **SEC. 2.** *Section 15212 of the Probate Code is amended to read:*

32 15212. (a) Subject to the requirements of this section, a trust
33 for the care of an animal is a trust for a lawful noncharitable
34 purpose. Unless expressly provided in the trust, the trust terminates
35 when no animal living on the date of the settlor’s death remains
36 alive. The governing instrument of the animal trust shall be
37 liberally construed to bring the trust within this section, to presume
38 against the merely precatory or honorary nature of the disposition,

1 and to carry out the general intent of the settlor. Extrinsic evidence
2 is admissible in determining the settlor's intent.

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

5 (1) Except as expressly provided otherwise in the trust
6 instrument, the principal or income shall not be converted to the
7 use of the trustee or to any use other than for the benefit of the
8 animal.

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

11 (A) As directed in the trust instrument.

12 (B) If the trust was created in a nonresiduary clause in the
13 settlor's will or in a codicil to the settlor's will, under the residuary
14 clause in the settlor's will.

15 (C) If the application of subparagraph (A) or (B) does not result
16 in distribution of unexpended trust property, to the settlor's heirs
17 under Section 21114.

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

21 (c) The intended use of the principal or income may be enforced
22 by a person designated for that purpose in the trust instrument or,
23 if none is designated, by a person appointed by a court. In addition
24 to a person identified in subdivision (a) of Section 17200, any
25 person interested in the welfare of the animal or any nonprofit
26 charitable organization that has as its principal activity the care of
27 animals may petition the court regarding the trust as provided in
28 Chapter 3 (commencing with Section 17200) of Part 5.

29 (d) If a trustee is not designated or no designated or successor
30 trustee is willing or able to serve, a court shall name a trustee. A
31 court may order the transfer of the trust property to a
32 court-appointed trustee, if it is required to ensure that the intended
33 use is carried out and if a successor trustee is not designated in the
34 trust instrument or if no designated successor trustee agrees to
35 serve or is able to serve. A court may also make all other orders
36 and determinations as it shall deem advisable to carry out the intent
37 of the settlor and the purpose of this section.

38 (e) The accountings required by Section 16062 shall be provided
39 to the beneficiaries who would be entitled to distribution if the
40 animal were then deceased and to any nonprofit charitable

1 corporation that has as its principal activity the care of animals
2 and that has requested these accountings in writing. However, if
3 the value of the assets in the trust does not exceed forty thousand
4 dollars (\$40,000), no filing, report, registration, periodic
5 accounting, separate maintenance of funds, appointment, or fee is
6 required by reason of the existence of the fiduciary relationship
7 of the trustee, unless ordered by the court or required by the trust
8 instrument.

9 (f) Any beneficiary, any person designated by the trust
10 instrument or the court to enforce the trust, or any nonprofit
11 charitable corporation that has as its principal activity the care of
12 animals may, upon reasonable request, inspect the animal, the
13 premises where the animal is maintained, or the books and records
14 of the trust.

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

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

19 (i) The court may, on its own motion or on request of the trustee
20 or any person or organization authorized to petition the court
21 regarding the trust pursuant to subdivision (c), appoint, *in*
22 *accordance with Section 1003*, a guardian ad litem to represent
23 the interest of the animal if the court determines that representation
24 of the interest otherwise would be inadequate. The reasonable
25 expenses of the guardian ad litem, including compensation and
26 attorney’s fees, shall be determined by the court and paid as the
27 court orders, either out of the trust or from another source as the
28 court orders.

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