

AMENDED IN SENATE JUNE 11, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

AMENDED IN ASSEMBLY MARCH 19, 2014

AMENDED IN ASSEMBLY MARCH 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 2034**

**Introduced by Assembly Member Gatto**

February 20, 2014

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An act to ~~add Section 2361 to, and to add Part 7.5 (commencing with Section 3250) to Division 4 of the Probate Code~~ amend Section 15657.03 of the Welfare and Institutions Code, relating to ~~family relations protective orders.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2034, as amended, Gatto. Family relations: family ~~visitation and conservatorships~~: visitation: protective orders.

*Existing law authorizes a conservator or a trustee of an elder or dependent adult, an attorney-in-fact of an elder or dependent adult, a person appointed as a guardian ad litem for an elder or dependent adult, or another person legally authorized to seek a protective order on behalf of an elder or dependent adult who has suffered physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.*

*This bill would additionally allow a petition to be brought by an adult child of an abused elder or dependent adult to enjoin a party from interfering with visitation between the adult child and the abused elder or dependent adult when an elder or dependent adult has suffered abuse in the form of isolation, as defined, and would allow a court to make an order enjoining a party from isolating or otherwise interfering with the visitation of the abused elder or dependent adult.*

*The bill would require the court to appoint counsel for the abused elder or dependent adult and would require the appointed counsel to be paid for by the adult child who brings the petition. The bill would require the appointed counsel to submit a report to the court regarding whether the abused elder or adult desires the proposed visitation, among other things. The bill would require this report to be confidential, except as provided, and would make legislative findings and declarations regarding the privacy interests affected by the reports that are protected by the bill.*

*Because a violation of a court order issued pursuant to the above provisions would be punishable as contempt, a misdemeanor, this bill would create a new crime and would thereby impose a state-mandated local program.*

~~(1) Existing law establishes procedures by which a court may grant reasonable visitation rights to a parent of a minor child, unless it is shown that the visitation would be detrimental to the best interests of the child. Existing law requires the court, when determining the best interest of the child, to consider, among other factors, the health, safety, and welfare of the child.~~

~~This bill would establish procedures by which a court may grant reasonable visitation rights to an adult child if a proposed visitee, as defined, expresses a desire for that visitation. The bill would require a court investigator to prepare a report that contains, among other things, interviews of specified individuals, a determination of whether the proposed visitee has the capacity to consent to the requested visitation, and a determination of whether the proposed visitee desires the proposed visitation. The bill would make the court investigator's report confidential and would make legislative findings and declarations regarding the privacy interests affected by the investigations that are protected by the bill. The bill would direct the court to consider, among other things, the history of the relationship between the proposed visitee and the adult child, any power of attorney or estate planning document~~

that expresses an opinion on visitation, and the report prepared by the court investigator.

~~(2) Existing law requires a conservator of a person to be responsible for the care, custody, control, and education of a conservatee, except where the court, in its discretion, limits the powers and duties of the conservator, as specified. Existing law provides that the conservator’s control of the conservatee shall not extend to personal rights retained by the conservatee, including, but not limited to, the right to receive visitors, telephone calls, and personal mail, unless specifically limited by a court order.~~

~~This bill would require a conservator to inform, as soon as reasonably possible, the relatives of a conservatee whenever a conservatee dies or has been hospitalized in a general acute care hospital for a period of 3 days or more and would require the conservator, in the event of death of the conservatee, to inform, as soon as reasonably possible, the relatives of any funeral arrangements and the location of the conservatee’s final resting place.~~

This bill would make a legislative finding that declares every adult in this state has the right to visit with, and receive mail and telephone or electronic communication from, whomever he or she so chooses, unless a court has specifically ordered otherwise.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. The Legislature finds and declares that every  
2 adult in this state has the right to visit with, and receive mail and  
3 telephone or electronic communication from, whomever he or she  
4 so chooses, unless a court has specifically ordered otherwise.

5 SEC. 2. *Section 15657.03 of the Welfare and Institutions Code*  
6 *is amended to read:*

1 15657.03. (a) (1) An elder or dependent adult who has suffered  
 2 abuse as defined in Section 15610.07 may seek protective orders  
 3 as provided in this section.

4 (2) A petition may be brought on behalf of an abused elder or  
 5 dependent adult by a conservator or a trustee of the elder or  
 6 dependent adult, an attorney-in-fact of an elder or dependent adult  
 7 who acts within the authority of the power of attorney, a person  
 8 appointed as a guardian ad litem for the elder or dependent adult,  
 9 or other person legally authorized to seek such relief.

10 (3) *In addition to paragraph (2), when an elder or dependent*  
 11 *adult has suffered abuse in the form of isolation, as defined in*  
 12 *Section 15610.43, a petition may be brought by an adult child of*  
 13 *the abused elder or dependent adult to enjoin a party from*  
 14 *interfering with visitation between the adult child and the abused*  
 15 *elder or dependent adult.*

16 (A) *The court shall not issue an ex parte order if a petition has*  
 17 *been brought by an adult child pursuant to this paragraph.*

18 (B) *The court shall appoint counsel for the abused elder or*  
 19 *dependent adult if a petition has been brought by an adult child*  
 20 *pursuant to this paragraph to determine whether or not visitation*  
 21 *is desired by the abused elder or dependent adult. The appointed*  
 22 *counsel shall be paid for by the adult child who brings the petition.*  
 23 *Prior to the hearing, counsel appointed pursuant to this*  
 24 *subparagraph shall do all of the following:*

25 (i) *Interview the abused elder or dependent adult for whom the*  
 26 *petitioner is seeking visitation.*

27 (ii) *Inform the abused elder or dependent adult of the contents*  
 28 *of the petition.*

29 (iii) *Determine whether the abused elder or dependent adult*  
 30 *has the capacity to consent to the proposed visitation.*

31 (iv) *Determine whether the abused elder or dependent adult*  
 32 *desires the proposed visitation.*

33 (C) *The counsel appointed pursuant to subparagraph (B) shall*  
 34 *report to the court on all of the requirements of clause (i) to (iv),*  
 35 *inclusive, of subparagraph (B), at least five days before the*  
 36 *hearing. A copy of the report shall be given to the attorney, if any,*  
 37 *for the adult child who has filed the petition for visitation, to the*  
 38 *party who is alleged to be isolating the abused elder or dependent*  
 39 *adult from the petitioner who is seeking visitation, and any other*  
 40 *persons as the court orders.*

1 (D) *The report required by subparagraph (C) is confidential*  
2 *and shall be made available only to parties and persons described*  
3 *in subparagraph (C), persons given notice of the petition who have*  
4 *requested the report or who have appeared in the proceedings and*  
5 *their attorneys of record, and the court.*

6 (E) *If a report has been received by the court for an abused*  
7 *elder or dependent adult pursuant to a petition for visitation*  
8 *pursuant to this paragraph within the preceding 12 months, the*  
9 *court may order, upon good cause shown, that another report is*  
10 *not necessary or that a more limited investigation may be*  
11 *conducted.*

12 (F) *A petition brought pursuant to this paragraph may be*  
13 *brought in the department of the superior court having jurisdiction*  
14 *over probate conservatorships. If the court determines that the*  
15 *matter should be determined in a civil action, the court may instead*  
16 *transfer the matter to the general civil calendar of the superior*  
17 *court.*

18 (b) For the purposes of this section:

19 (1) *“Adult child” means an individual who is 18 years of age*  
20 *or older and is related to the proposed visitee biologically, through*  
21 *adoption, through the marriage or former marriage of the proposed*  
22 *visitee to the adult child’s biological parent, or by a judgment of*  
23 *parentage entered by a court of competent jurisdiction.*

24 ~~(1)~~

25 (2) *“Conservator” means the legally appointed conservator of*  
26 *the person or estate of the petitioner, or both.*

27 ~~(2) “Petitioner”~~

28 (3) (A) *Except as provided in subparagraph (B), “petitioner”*  
29 *means the elder or dependent adult to be protected by the protective*  
30 *orders and, if the court grants the petition, the protected person.*

31 (B) *If a petition is brought pursuant to paragraph (3) of*  
32 *subdivision (a), then “petitioner” means the adult child who has*  
33 *filed the petition to enjoin a party from interfering with visitation*  
34 *between the adult child and an abused elder or dependent adult.*

35 ~~(3)~~

36 (4) *“Protective order” means an order that includes any of the*  
37 *following restraining orders, whether issued ex parte, after notice*  
38 *and hearing, or in a judgment:*

39 (A) *An order enjoining a party from abusing, intimidating,*  
40 *molesting, attacking, striking, stalking, threatening, sexually*

1 assaulting, battering, harassing, telephoning, including, but not  
 2 limited to, making annoying telephone calls as described in Section  
 3 653m of the Penal Code, destroying personal property, contacting,  
 4 either directly or indirectly, by mail or otherwise, or coming within  
 5 a specified distance of, or disturbing the peace of, the petitioner,  
 6 and, in the discretion of the court, on a showing of good cause, of  
 7 other named family or household members or a conservator, if  
 8 any, of the petitioner.

9 (B) An order excluding a party from the petitioner’s residence  
 10 or dwelling, except that this order shall not be issued if legal or  
 11 equitable title to, or lease of, the residence or dwelling is in the  
 12 sole name of the party to be excluded, or is in the name of the party  
 13 to be excluded and any other party besides the petitioner.

14 (C) *An order enjoining a party from isolating or otherwise*  
 15 *interfering with visitation between an elder or dependent adult*  
 16 *that has suffered abuse in the form of isolation, as defined in*  
 17 *Section 15610.43, and an adult child of the abused elder or*  
 18 *dependent adult who has brought a petition pursuant to paragraph*  
 19 *(3) of subdivision (a).*

20 ~~(C)~~

21 (D) An order enjoining a party from specified behavior that the  
 22 court determines is necessary to effectuate orders described in  
 23 subparagraph ~~(A) or (B)~~: (A), (B), or (C),

24 (4) “Respondent” means the person against whom the protective  
 25 orders are sought and, if the petition is granted, the restrained  
 26 person.

27 ~~An~~ *Except upon a petition brought pursuant to paragraph*  
 28 *(3) of subdivision (a), an order may be issued under this section,*  
 29 *with or without notice, to restrain any person for the purpose of*  
 30 *preventing a recurrence of abuse, if a declaration shows, to the*  
 31 *satisfaction of the court, reasonable proof of a past act or acts of*  
 32 *abuse of the petitioning elder or dependent adult.*

33 ~~Upon~~ *Except upon a petition brought pursuant to paragraph*  
 34 *(3) of subdivision (a), upon filing a petition for protective orders*  
 35 *under this section, the petitioner may obtain a temporary restraining*  
 36 *order in accordance with Section 527 of the Code of Civil*  
 37 *Procedure, except to the extent this section provides a rule that is*  
 38 *inconsistent. The temporary restraining order may include any of*  
 39 *the protective orders described in paragraph ~~(3)~~ (4) of subdivision*  
 40 *(b). However, the court may issue an ex parte order excluding a*

1 party from the petitioner’s residence or dwelling only on a showing  
2 of all of the following:

3 (1) Facts sufficient for the court to ascertain that the party who  
4 will stay in the dwelling has a right under color of law to possession  
5 of the premises.

6 (2) That the party to be excluded has assaulted or threatens to  
7 assault the petitioner, other named family or household member  
8 of the petitioner, or a conservator of the petitioner.

9 (3) That physical or emotional harm would otherwise result to  
10 the petitioner, other named family or household member of the  
11 petitioner, or a conservator of the petitioner.

12 (e) ~~A~~ *Except upon a petition brought pursuant to paragraph*  
13 *(3) of subdivision (a), a request for the issuance of a temporary*  
14 *restraining order without notice under this section shall be granted*  
15 *or denied on the same day that the petition is submitted to the*  
16 *court, unless the petition is filed too late in the day to permit*  
17 *effective review, in which case the order shall be granted or denied*  
18 *on the next day of judicial business in sufficient time for the order*  
19 *to be filed that day with the clerk of the court.*

20 (f) Within 21 days, or, if good cause appears to the court, 25  
21 days, from the date that a request for a temporary restraining order  
22 is granted or denied, a hearing shall be held on the petition. If no  
23 request for temporary orders is made, the hearing shall be held  
24 within 21 days, or, if good cause appears to the court, 25 days,  
25 from the date that the petition is filed.

26 (g) The respondent may file a response that explains or denies  
27 the alleged abuse *or isolation*.

28 (h) The court may issue, upon notice and a hearing, any of the  
29 orders set forth in paragraph ~~(3)~~ (4) of subdivision (b). The court  
30 may issue, after notice and hearing, an order excluding a person  
31 from a residence or dwelling if the court finds that physical or  
32 emotional harm would otherwise result to the petitioner, other  
33 named family or household member of the petitioner, or  
34 conservator of the petitioner.

35 (i) (1) In the discretion of the court, an order issued after notice  
36 and a hearing under this section may have a duration of not more  
37 than five years, subject to termination or modification by further  
38 order of the court either on written stipulation filed with the court  
39 or on the motion of a party. These orders may be renewed upon  
40 the request of a party, either for five years or permanently, without

1 a showing of any further abuse since the issuance of the original  
2 order, subject to termination or modification by further order of  
3 the court either on written stipulation filed with the court or on the  
4 motion of a party. The request for renewal may be brought at any  
5 time within the three months before the expiration of the order.

6 (2) The failure to state the expiration date on the face of the  
7 form creates an order with a duration of three years from the date  
8 of issuance.

9 (3) If an action is filed for the purpose of terminating or  
10 modifying a protective order prior to the expiration date specified  
11 in the order by a party other than the protected party, the party  
12 who is protected by the order shall be given notice, pursuant to  
13 subdivision (b) of Section 1005 of the Code of Civil Procedure,  
14 of the proceeding by personal service or, if the protected party has  
15 satisfied the requirements of Chapter 3.1 (commencing with  
16 Section 6205) of Division 7 of Title 1 of the Government Code,  
17 by service on the Secretary of State. If the party who is protected  
18 by the order cannot be notified prior to the hearing for modification  
19 or termination of the protective order, the court shall deny the  
20 motion to modify or terminate the order without prejudice or  
21 continue the hearing until the party who is protected can be  
22 properly noticed and may, upon a showing of good cause, specify  
23 another method for service of process that is reasonably designed  
24 to afford actual notice to the protected party. The protected party  
25 may waive his or her right to notice if he or she is physically  
26 present in court and does not challenge the sufficiency of the notice.

27 (j) In a proceeding under this section, a support person may  
28 accompany a party in court and, if the party is not represented by  
29 an attorney, may sit with the party at the table that is generally  
30 reserved for the party and the party's attorney. The support person  
31 is present to provide moral and emotional support for a person  
32 who alleges he or she is a victim of abuse. The support person is  
33 not present as a legal adviser and may not provide legal advice.  
34 The support person may assist the person who alleges he or she is  
35 a victim of abuse in feeling more confident that he or she will not  
36 be injured or threatened by the other party during the proceedings  
37 if the person who alleges he or she is a victim of abuse and the  
38 other party are required to be present in close proximity. This  
39 subdivision does not preclude the court from exercising its  
40 discretion to remove the support person from the courtroom if the

1 court believes the support person is prompting, swaying, or  
2 influencing the party assisted by the support person.

3 (k) Upon the filing of a petition for protective orders under this  
4 section, the respondent shall be personally served with a copy of  
5 the petition, notice of the hearing or order to show cause, temporary  
6 restraining order, if any, and any declarations in support of the  
7 petition. Service shall be made at least five days before the hearing.  
8 The court may, on motion of the petitioner or on its own motion,  
9 shorten the time for service on the respondent.

10 (l) A notice of hearing under this section shall notify the  
11 respondent that if he or she does not attend the hearing, the court  
12 may make orders against him or her that could last up to five years.

13 (m) (1) The court may, upon the filing of a declaration by the  
14 petitioner that the respondent could not be served within the time  
15 required by statute, reissue an order previously issued and dissolved  
16 by the court for failure to serve the respondent. The reissued order  
17 shall remain in effect until the date set for the hearing.

18 (2) The reissued order shall state on its face the date of  
19 expiration of the order.

20 (n) (1) If a respondent, named in an order issued under this  
21 section after a hearing, has not been served personally with the  
22 order but has received actual notice of the existence and substance  
23 of the order through personal appearance in court to hear the terms  
24 of the order from the court, no additional proof of service is  
25 required for enforcement of the order.

26 (2) If the respondent named in a temporary restraining order is  
27 personally served with the order and notice of hearing with respect  
28 to a restraining order or protective order based on the temporary  
29 restraining order, but the respondent does not appear at the hearing,  
30 either personally or by an attorney, and the terms and conditions  
31 of the restraining order or protective order issued at the hearing  
32 are identical to the temporary restraining order, except for the  
33 duration of the order, then the restraining order or protective order  
34 issued at the hearing may be served on the respondent by first-class  
35 mail sent to the respondent at the most current address for the  
36 respondent that is available to the court.

37 (3) The Judicial Council form for temporary orders issued  
38 pursuant to this subdivision shall contain a statement in  
39 substantially the following form:

40

1 “If you have been personally served with a temporary restraining  
2 order and notice of hearing, but you do not appear at the hearing  
3 either in person or by a lawyer, and a restraining order that is the  
4 same as this temporary restraining order except for the expiration  
5 date is issued at the hearing, a copy of the order will be served on  
6 you by mail at the following address: \_\_\_\_\_.

7 If that address is not correct or you wish to verify that the  
8 temporary restraining order was converted to a restraining order  
9 at the hearing without substantive change and to find out the  
10 duration of that order, contact the clerk of the court.”

11  
12 (o) (1) Information on any protective order relating to elder or  
13 dependent adult abuse issued by a court pursuant to this section  
14 shall be transmitted to the Department of Justice in accordance  
15 with either paragraph (2) or (3).

16 (2) The court shall order the petitioner or the attorney for the  
17 petitioner to deliver a copy of an order issued under this section,  
18 or a reissuance, extension, modification, or termination of the  
19 order, and any subsequent proof of service, by the close of the  
20 business day on which the order, reissuance, extension,  
21 modification, or termination was made, to each law enforcement  
22 agency having jurisdiction over the residence of the petitioner, and  
23 to any additional law enforcement agencies within the court’s  
24 discretion as are requested by the petitioner.

25 (3) Alternatively, the court or its designee shall transmit, within  
26 one business day, to law enforcement personnel all information  
27 required under subdivision (b) of Section 6380 of the Family Code  
28 regarding any order issued under this section, or a reissuance,  
29 extension, modification, or termination of the order, and any  
30 subsequent proof of service, by either one of the following  
31 methods:

32 (A) Transmitting a physical copy of the order or proof of service  
33 to a local law enforcement agency authorized by the Department  
34 of Justice to enter orders into the California Law Enforcement  
35 Telecommunications System (CLETS).

36 (B) With the approval of the Department of Justice, entering  
37 the order or proof of service into CLETS directly.

38 (4) Each appropriate law enforcement agency shall make  
39 available information as to the existence and current status of these

1 orders to law enforcement officers responding to the scene of  
2 reported abuse.

3 (5) An order issued under this section shall, on request of the  
4 petitioner, be served on the respondent, whether or not the  
5 respondent has been taken into custody, by any law enforcement  
6 officer who is present at the scene of reported abuse involving the  
7 parties to the proceeding. The petitioner shall provide the officer  
8 with an endorsed copy of the order and a proof of service, which  
9 the officer shall complete and send to the issuing court.

10 (6) Upon receiving information at the scene of an incident of  
11 abuse that a protective order has been issued under this section,  
12 or that a person who has been taken into custody is the respondent  
13 to that order, if the protected person cannot produce an endorsed  
14 copy of the order, a law enforcement officer shall immediately  
15 attempt to verify the existence of the order.

16 (7) If the law enforcement officer determines that a protective  
17 order has been issued, but not served, the officer shall immediately  
18 notify the respondent of the terms of the order and where a written  
19 copy of the order can be obtained, and the officer shall at that time  
20 also enforce the order. The law enforcement officer's verbal notice  
21 of the terms of the order shall constitute service of the order and  
22 is sufficient notice for the purposes of this section and for the  
23 purposes of Section 273.6 of the Penal Code.

24 (p) Nothing in this section shall preclude either party from  
25 representation by private counsel or from appearing on the party's  
26 own behalf.

27 (q) ~~There~~ *Except upon a petition brought pursuant to paragraph*  
28 *(3) of subdivision (a), there is no filing fee for a petition, response,*  
29 *or paper seeking the reissuance, modification, or enforcement of*  
30 *a protective order filed in a proceeding brought pursuant to this*  
31 *section. The court may assess a reasonable filing fee for a petition*  
32 *brought pursuant to paragraph (3) of subdivision (a).*

33 (r) ~~Pursuant~~ *Except upon a petition brought pursuant to*  
34 *paragraph (3) of subdivision (a), pursuant to paragraph (4) of*  
35 *subdivision (b) of Section 6103.2 of the Government Code, a*  
36 *petitioner shall not be required to pay a fee for law enforcement*  
37 *to serve an order issued under this section. A petitioner shall be*  
38 *required to pay a fee to law enforcement to serve an order on a*  
39 *petition brought pursuant to paragraph (3) of subdivision (a).*

1 (s) ~~The~~ Except upon a petition brought pursuant to paragraph  
 2 (3) of subdivision (a), the prevailing party in any action brought  
 3 under this section may be awarded court costs and attorney’s fees,  
 4 if any.

5 (t) (1) A person subject to a protective order under this section  
 6 shall not own, possess, purchase, receive, or attempt to receive a  
 7 firearm or ammunition while the protective order is in effect.

8 (2) The court shall order a person subject to a protective order  
 9 issued under this section to relinquish any firearms he or she owns  
 10 or possesses pursuant to Section 527.9 of the Code of Civil  
 11 Procedure.

12 (3) Every person who owns, possesses, purchases, or receives,  
 13 or attempts to purchase or receive a firearm or ammunition while  
 14 subject to a protective order issued under this section is punishable  
 15 pursuant to Section 29825 of the Penal Code.

16 (4) This subdivision shall not apply in a case in which the  
 17 protective order issued under this section was made solely on the  
 18 basis of financial abuse unaccompanied by force, threat,  
 19 harassment, intimidation, or any other form of abuse.

20 (u) Any willful disobedience of any temporary restraining order  
 21 or restraining order after hearing granted under this section is  
 22 punishable pursuant to Section 273.6 of the Penal Code.

23 (v) This section does not apply to any action or proceeding  
 24 governed by Title 1.6C (commencing with Section 1788) of Part  
 25 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with  
 26 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,  
 27 or by Division 10 (commencing with Section 6200) of the Family  
 28 Code. Nothing in this section shall preclude a petitioner’s right to  
 29 use other existing civil remedies.

30 (w) The Judicial Council shall develop forms, instructions, and  
 31 rules relating to matters governed by this section. The petition and  
 32 response forms shall be simple and concise, and their use by parties  
 33 in actions brought pursuant to this section shall be mandatory.

34 ~~SEC. 2.— Section 2361 is added to the Probate Code, to read:~~

35 ~~2361.— A conservator shall, as soon as reasonably possible,~~  
 36 ~~inform relatives of a conservatee, as defined in subdivision (b) of~~  
 37 ~~Section 1821, whenever a conservatee dies or has been hospitalized~~  
 38 ~~in a general acute care hospital, as defined in Section 1250 of the~~  
 39 ~~Health and Safety Code, for a period of three days or more. In the~~  
 40 ~~case of death, a conservator shall inform, as soon as reasonably~~

1 possible, the relatives of any funeral arrangements and the location  
2 of the conservatee's final resting place.

3 ~~SEC. 3. Part 7.5 (commencing with Section 3250) is added to~~  
4 ~~Division 4 of the Probate Code, to read:~~

5  
6 ~~PART 7.5. RIGHTS OF ADULT CHILDREN AND VISITATION~~  
7

8 ~~3250. As used in this part:~~

9 ~~(a) "Proposed visatee" means an adult who is a parent and who~~  
10 ~~does not have a conservator of the person and for whom a visitation~~  
11 ~~decision is sought.~~

12 ~~(b) "Visitation" means any in-person meeting, or any telephonic,~~  
13 ~~mail, or electronic communication, between a proposed visatee~~  
14 ~~and his or her adult child.~~

15 ~~(c) "Visitation decision" means a decision regarding the~~  
16 ~~proposed visatee's visitations, including the following:~~

17 ~~(1) Approval or disapproval of any visitation.~~

18 ~~(2) The specifics of that visitation, including, but not limited~~  
19 ~~to, the time, place, and manner of the visitation.~~

20 ~~(d) "Adult child" means an individual who is 18 years of age~~  
21 ~~or older and is related to the proposed visatee biologically, through~~  
22 ~~adoption, through the marriage or former marriage of the proposed~~  
23 ~~visatee to the adult child's biological parent, or by a judgment of~~  
24 ~~parentage entered by a court of competent jurisdiction.~~

25 ~~3251. (a) A petition may be filed by an adult child to compel~~  
26 ~~visitation with a proposed visatee.~~

27 ~~(b) In ruling on the petition, the court shall determine if the~~  
28 ~~proposed visatee has sufficient capacity to make a knowing and~~  
29 ~~intelligent visitation decision.~~

30 ~~(c) If the court determines that the proposed visatee has sufficient~~  
31 ~~capacity to make a knowing and intelligent visitation decision, the~~  
32 ~~court shall grant reasonable visitation if the proposed visatee~~  
33 ~~expresses a desire for visitation.~~

34 ~~(d) If the proposed visatee lacks the capacity to make a knowing~~  
35 ~~and intelligent visitation decision, then the court shall determine~~  
36 ~~if the proposed visatee would want visitation. In determining~~  
37 ~~whether or not the proposed visatee would or would not want a~~  
38 ~~visitation from the petitioner, the court shall consider the following:~~

39 ~~(1) The history of the relationship between the proposed visatee~~  
40 ~~and the petitioner.~~

1     ~~(2) Any statements made by the proposed visitee expressing his~~  
2     ~~or her desire to have a visitation with the petitioner.~~  
3     ~~(3) Any power of attorney or estate planning document that~~  
4     ~~expresses an opinion on visitation with the petitioner.~~  
5     ~~(4) The report of the court investigator prepared pursuant to~~  
6     ~~Section 3256.~~  
7     ~~(e) If the court determines that the proposed visitee would want~~  
8     ~~visitation, the court shall grant reasonable visitation, provided the~~  
9     ~~court determines that the visitation is in the best interests of the~~  
10    ~~proposed visitee.~~  
11    ~~(f) If the court determines that the proposed visitee has sufficient~~  
12    ~~capacity to make a knowing and intelligent visitation decision and~~  
13    ~~the proposed visitee expresses that he or she does not desire~~  
14    ~~visitation then the court shall not grant visitation.~~  
15    ~~(g) A determination by the court regarding capacity under this~~  
16    ~~part shall not be cited as evidence in any other legal proceeding.~~  
17    ~~3252. The petition may be filed in the superior court of any of~~  
18    ~~the following counties:~~  
19    ~~(a) The county in which proposed visitee resides.~~  
20    ~~(b) The county in which the proposed visitee is temporarily~~  
21    ~~living.~~  
22    ~~3253. The petition shall state, or set forth by a declaration~~  
23    ~~attached to the petition, all of the following known to the petitioner~~  
24    ~~at the time the petition is filed:~~  
25    ~~(a) The condition of the proposed visitee’s health, to the extent~~  
26    ~~known by the petitioner.~~  
27    ~~(b) The proposed visitation that is to be considered.~~  
28    ~~(c) The efforts made to obtain visitation with the proposed~~  
29    ~~visitoe.~~  
30    ~~(d) The deficit or deficits, if any, in the proposed visitee’s mental~~  
31    ~~functions listed in subdivision (a) of Section 811 that are impaired,~~  
32    ~~and an identification of a link between the deficit or deficits and~~  
33    ~~the proposed visitee’s inability to respond knowingly and~~  
34    ~~intelligently to queries about the requested visitation.~~  
35    ~~(e) The names and addresses, so far as they are known to the~~  
36    ~~petitioner, of the persons specified in subdivision (b) of Section~~  
37    ~~1821.~~  
38    ~~3254. Upon the filing of the petition, the court shall determine~~  
39    ~~if the proposed visitee has retained an attorney to represent him~~

1 or her in the proceeding under this part or if the proposed visitee  
2 plans to retain an attorney for that purpose.

3 ~~3255. (a) Not less than 15 days before the hearing, notice of~~  
4 ~~the time and place of the hearing and a copy of the petition shall~~  
5 ~~be personally served on the proposed visitee, and the proposed~~  
6 ~~visitee's attorney, if any.~~

7 ~~(b) Not less than 15 days before the hearing, notice of the time~~  
8 ~~and place of the hearing and a copy of the petition shall be mailed~~  
9 ~~to the following persons:~~

10 ~~(1) The proposed visitee's spouse, if any, at the address stated~~  
11 ~~in the petition.~~

12 ~~(2) The proposed visitee's relatives named in the petition at~~  
13 ~~each relative's address stated in the petition.~~

14 ~~3256. Prior to the hearing, the court investigator shall do all~~  
15 ~~of the following:~~

16 ~~(a) Conduct the following interviews:~~

17 ~~(1) The proposed visitee.~~

18 ~~(2) All petitioners.~~

19 ~~(3) The proposed visitee's spouse or registered domestic partner~~  
20 ~~and relatives within the first degree.~~

21 ~~(4) To the extent practical, neighbors, and, if known, close~~  
22 ~~friends of the proposed visitee.~~

23 ~~(b) Inform the proposed visitee of the contents of the petition.~~

24 ~~(c) Determine whether the proposed visitee has the capacity to~~  
25 ~~consent to the requested visitation.~~

26 ~~(d) Determine whether the proposed visitee desires the proposed~~  
27 ~~visitation.~~

28 ~~(e) Report to the court in writing, at least five days before the~~  
29 ~~hearing, concerning all of the foregoing.~~

30 ~~(f) Mail, at least five days before the hearing, a copy of the~~  
31 ~~report referred to in subdivision (e) to all of the following:~~

32 ~~(1) The attorney, if any, for the petitioner.~~

33 ~~(2) The attorney, if any, for the proposed visitee.~~

34 ~~(3) The spouse, registered domestic partner, and relatives within~~  
35 ~~the first degree of the proposed visitee, unless the court determines~~  
36 ~~that the mailing will result in harm to the proposed visitee.~~

37 ~~(4) Any other persons as the court orders.~~

38 ~~(g) The report required by this section is confidential and shall~~  
39 ~~be made available only to parties, persons described in subdivision~~

40 ~~(f), persons given notice of the petition who have requested this~~

1 report or who have appeared in the proceedings, their attorneys,  
 2 and the court.

3 (h) ~~If the court investigator has performed an investigation~~  
 4 ~~within the preceding 12 months and furnished a report thereon to~~  
 5 ~~the court, the court may order, upon good cause shown, that another~~  
 6 ~~investigation is not necessary or that a more limited investigation~~  
 7 ~~may be performed.~~

8 ~~3257. The court in which the petition is filed has continuing~~  
 9 ~~jurisdiction to revoke or modify an order made under this part~~  
 10 ~~upon a petition filed, noticed, and heard in the same manner as an~~  
 11 ~~original petition filed under this part.~~

12 ~~3258. Each court shall assess each adult child who files a~~  
 13 ~~petition for visitation in the county for any investigation or review~~  
 14 ~~conducted by a court investigator with respect to the proposed~~  
 15 ~~visitee as described in Section 3256. The court may order~~  
 16 ~~reimbursement to the court for the amount of the assessment, unless~~  
 17 ~~the court finds that all or any part of the assessment would impose~~  
 18 ~~a hardship on the adult child filing a petition for visitation.~~

19 ~~SEC. 4.~~

20 *SEC. 3.* The Legislature finds and declares that Section 3 I of  
 21 this act, which adds Part 7.5 (commencing with Section 3250) to  
 22 Division 4 of the Probate Code *amends Section 15657.03 of the*  
 23 *Welfare and Institutions Code*, imposes a limitation on the public's  
 24 right of access to the writings of public officials and a public  
 25 agency within the meaning of Section 3 of Article I of the  
 26 California Constitution. Pursuant to paragraph (2) of subdivision  
 27 (b) of Section 3 of Article I of the California Constitution, the  
 28 Legislature makes the following findings to demonstrate the interest  
 29 protected by this limitation and the need for protecting that interest:

30 In order to protect the identities and other privacy interests of  
 31 those affected by ~~the court investigations~~ *the reports required by*  
 32 *this act*, it is necessary that this information be kept confidential.

33 *SEC. 4. No reimbursement is required by this act pursuant to*  
 34 *Section 6 of Article XIII B of the California Constitution because*  
 35 *the only costs that may be incurred by a local agency or school*  
 36 *district will be incurred because this act creates a new crime or*  
 37 *infraction, eliminates a crime or infraction, or changes the penalty*  
 38 *for a crime or infraction, within the meaning of Section 17556 of*  
 39 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*  
2 *Constitution.*

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