

AMENDED IN ASSEMBLY APRIL 10, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1059

Introduced by Assembly Member Migden

February 27, 1997

An act to add Division 2.5 (commencing with Section 297) to the Family Code, to add Section 1374.58 to the Health and Safety Code, and to add Section 10121.7 to the Insurance Code, relating to ~~health coverage~~ domestic partners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1059, as amended, Migden. ~~Health coverage: domestic~~ Domestic partners.

(1) Existing law sets forth the requirements of a valid marriage, and specifies the rights and obligations of spouses during marriage.

This bill would define "domestic partners" and provide for the registration of domestic partnerships with the Secretary of State. The bill would also specify procedures for the termination of domestic partnerships. The bill would prohibit a person who has filed a Declaration of Domestic Partnership from filing a new declaration until at least 6 months has elapsed from the date that a Notice of Termination of Domestic Partnership was filed with the Secretary of State in connection with the termination of the most recent domestic partnership, except where the previous domestic partnership ended because one of the partners died.

The bill would require the Secretary of State to prepare forms for the registration and termination of domestic partnerships, and distribute these forms to each county clerk. The bill would require the Secretary of State to establish by regulation and charge fees for processing these forms. The bill would require these forms to be available to the public at the office of the Secretary of State and each county clerk. By increasing the duties of the county clerk, the bill would impose a state-mandated local program.

This bill would provide that any domestic partnership entered into outside of this state, which would be valid by the laws of the jurisdiction under which the partnership was created, shall be valid in this state.

(2) Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, a willful violation of any of these provisions is punishable as either a felony or a misdemeanor. Existing law also provides for the regulation of policies of disability insurance ~~and self-insured employee welfare benefit plans~~ administered by the Insurance Commissioner.

Existing law requires that health care service plans, ~~and disability insurers, and self-insured employee welfare benefit plans~~ provide coverage for certain benefits and services.

This bill would require a group health care service plan and a policy of disability insurance that provides hospital, medical, or surgical expense benefits for employees, subscribers, insureds, or policyholders and their dependents to provide eligibility and benefits to a domestic partner, ~~as defined,~~ of an employee, subscriber, insured, or policyholder to the same extent as provided to a dependent of an employee, subscriber, insured, or policyholder. The bill would also require a health care service plan, ~~or a policy of group disability insurance, or a self-insured employee welfare benefit plan~~ that provides hospital, medical, or surgical expense benefits for employees, subscribers, insureds, or policyholders and their dependents to enroll as a dependent, upon application by the employer or group administrator, a domestic partner of the employee, subscriber, insured, or policyholder when that employee, subscriber, insured, or policyholder at any time makes an



application for enrollment to the employer or group administrator.

Since a willful violation of the provisions applicable to health care service plans is a crime, this bill would impose a state-mandated local program.

~~(2)~~

(3) 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, *including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that, *with regard to certain mandates*, no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. *Division 2.5 (commencing with Section*
2 *297) is added to the Family Code, to read:*

3

4 DIVISION 2.5. DOMESTIC PARTNER
5 REGISTRATION

6

7 PART 1. DEFINITIONS

8

9 297. (a) *Domestic partners are two adults who have*
10 *chosen to share one another's lives in an intimate and*
11 *committed relationship of mutual caring.*

12 (b) *A domestic partnership shall be established when*
13 *all of the following requirements are met:*



1 (1) Both persons have a common residence.

2 (2) Both persons agree to be jointly responsible for
3 each other's basic living expenses during the domestic
4 partnership.

5 (3) Neither person is married or a member of another
6 domestic partnership.

7 (4) The two persons are not related by blood in a way
8 which would prevent them from being married to each
9 other in this state.

10 (5) Both persons are at least 18 years of age.

11 (6) Both file a Declaration of Domestic Partnership
12 with the Secretary of State pursuant to this division.

13 (c) "Have a common residence" means that two
14 people are cohabitants. It is not necessary that the legal
15 right to possess the common residence be in both of their
16 names. Two people are cohabitants even if one or both
17 have additional residences. Domestic partners do not
18 cease to be cohabitants if one leaves the common
19 residence but intends to return.

20 (d) "Basic living expenses" means food and shelter. It
21 also means any other cost, such as medical care, if some
22 or all of the cost is paid as a benefit because a person is
23 another person's domestic partner.

24 (e) "Joint responsibility" means that each partner
25 agrees to provide for the other partner's basic living
26 expenses if the partner is unable to provide for herself or
27 himself. Anyone to whom these expenses are owed may
28 enforce this responsibility.

29

30 PART 2. REGISTRATION

31

32 298. (a) The Secretary of State shall prepare forms
33 entitled "Declaration of Domestic Partnership" and
34 "Notice of Termination of Domestic Partnership" to
35 meet the requirements of this division. These forms shall
36 require the signature and seal of an acknowledgment by
37 a notary public to be binding and valid.

38 (b) (1) The Secretary of State shall distribute these
39 forms to each county clerk. These forms shall be available



1 to the public at the office of the Secretary of State and
2 each county clerk.

3 (2) The Secretary of State shall, by regulation,
4 establish fees for the actual costs of processing each of
5 these forms, and shall charge these fees to persons filing
6 the forms.

7 (c) The Declaration of Domestic Partnership shall
8 require each person who wants to become a domestic
9 partner to (1) state that he or she meets the requirements
10 of Section 297 at the time the form is signed, (2) provide
11 a mailing address, (3) sign the form under penalty of
12 perjury, and (4) have a notary public notarize his or her
13 signature.

14 298.5. (a) Two persons desiring to become domestic
15 partners may complete and file a Declaration of
16 Domestic Partnership with the Secretary of State.

17 (b) No person who has filed a Declaration of Domestic
18 Partnership may file a new Declaration of Domestic
19 Partnership until at least six months after the date that a
20 Notice of Termination of Domestic Partnership was filed
21 with the Secretary of State pursuant to subdivision (b) of
22 Section 299 in connection with the termination of the
23 most recent domestic partnership. This prohibition does
24 not apply if the previous domestic partnership ended
25 because one of the partners died.

26
27 **PART 3. TERMINATION**

28
29 299. (a) A domestic partnership is terminated when
30 any one of the following occurs:

31 (1) One partner gives or sends to the other partner a
32 written notice that he or she is terminating the
33 partnership.

34 (2) One of the domestic partners dies.

35 (3) One of the domestic partners marries.

36 (4) The domestic partners no longer have a common
37 residence.

38 (b) Upon termination of a domestic partnership, at
39 least one former partner shall file a Notice of Termination
40 of Domestic Partnership with the Secretary of State. The

1 partner who files the Notice of Termination of Domestic
2 Partnership shall send a copy of the notice to the last
3 known address of the other partner.

4 (c) A former domestic partner who has given a copy
5 of a Declaration of Domestic Partnership to any third
6 party in order to qualify for any benefit or right shall,
7 within 60 days of termination of the domestic partnership,
8 give or send to the third party, at the last known address
9 of the third party, written notification that the domestic
10 partnership has been terminated. A third party who
11 suffers a loss as a result of failure by the domestic partner
12 to send this notice shall be entitled to seek recovery from
13 the partner who was obligated to send it for any actual loss
14 resulting thereby.

15 (d) Failure to file the Notice of Termination of
16 Domestic Partnership required in subdivision (b) or to
17 provide the third party notice required in subdivision (c)
18 shall not delay or prevent the termination of the domestic
19 partnership.

20

21

PART 4. LEGAL EFFECT

22

23 299.5. (a) The obligations that two people have to
24 each other as a result of creating a domestic partnership
25 are those described in Section 297. Registration as a
26 domestic partner under this division shall not be evidence
27 of, or establish, any rights existing under law other than
28 those expressly provided to domestic partners in this
29 division, Section 1374.58 of the Health and Safety Code,
30 or Section 10121.7 of the Insurance Code.

31 The provisions relating to domestic partners provided
32 in this division, Section 1374.58 of the Health and Safety
33 Code, and Section 10121.7 of the Insurance Code shall not
34 diminish any right under any other provision of law.

35 (b) Upon the termination of a domestic partnership,
36 the partners, from that time forward, shall incur none of
37 the obligations to each other as domestic partners that are
38 created by this division, Section 1374.58 of the Health and
39 Safety Code, or Section 10121.7 of the Insurance Code.



1 (c) Any domestic partnership entered into outside of
2 this state, which would be valid by the laws of the
3 jurisdiction under which the partnership was created,
4 shall be valid in this state.

5 SEC. 2. Section 1374.58 is added to the Health and
6 Safety Code, to read:

7 1374.58. (a) A group health care service plan that
8 provides hospital, medical, or surgical expense benefits
9 for employees or subscribers and their dependents shall
10 provide eligibility or benefits to the domestic partner of
11 an employee or subscriber to the same extent as provided
12 to a dependent of the employee or subscriber.

13 (b) A health care service plan that provides hospital,
14 medical, or surgical expense benefits for employees or
15 subscribers and their dependents shall enroll as a
16 dependent, upon application by the employer or group
17 administrator, a domestic partner of an employee or
18 subscriber, at any time the employee or subscriber makes
19 an application for enrollment to the employer or group
20 administrator.

21 (c) For purposes of this section, the following
22 definitions apply:

23 ~~(1) "Domestic partner" means an adult who has~~
24 ~~chosen to share in another's life in an intimate and~~
25 ~~committed relationship of mutual caring. A domestic~~
26 ~~partnership shall be established when all of the following~~
27 ~~requirements are met:~~

28 ~~(A) Both persons have a common residence.~~

29 ~~(B) Both persons agree to be jointly responsible for~~
30 ~~each other's basic living expenses during the domestic~~
31 ~~partnership.~~

32 ~~(C) Neither person is married or a member of another~~
33 ~~domestic partnership.~~

34 ~~(D) The two persons are not related by blood in a way~~
35 ~~that would prevent them from being married to each~~
36 ~~other in this state.~~

37 ~~(E) Both persons are at least 18 years of age.~~

38 ~~(2) "Have a common residence" means that two~~
39 ~~people share the same place to live. It is not necessary that~~
40 ~~the legal right to possess the place be in both of their~~



1 ~~names. Two people may live together even if one or both~~
2 ~~have additional places to live. Domestic partners do not~~
3 ~~cease to live together if one leaves the shared place but~~
4 ~~intends to return.~~

5 ~~(3) “Basic living expenses” means basic food and~~
6 ~~shelter. It also means any other cost, such as medical care,~~
7 ~~if some or all of the cost is paid as a benefit because a~~
8 ~~person is another person’s domestic partner.~~

9 ~~(4) “Joint responsibility” means that each partner~~
10 ~~agrees to provide for the other partner’s basic living~~
11 ~~expenses if the partner is unable to provide for herself or~~
12 ~~himself. Anyone to whom these expenses are owed can~~
13 ~~enforce this responsibility. term “domestic partner” shall~~
14 ~~have the same meaning as that term is used in Section 297~~
15 ~~of the Family Code.~~

16 ~~SEC. 2.—~~

17 ~~SEC. 3. Section 10121.7 is added to the Insurance~~
18 ~~Code, to read:~~

19 ~~10121.7. (a) A policy of group disability insurance~~
20 ~~that provides hospital, medical, or surgical expense~~
21 ~~benefits for employees, insureds, or policyholders and~~
22 ~~their dependents shall provide eligibility and benefits to~~
23 ~~the domestic partner of an employee, insured, or~~
24 ~~policyholder to the same extent as provided to a~~
25 ~~dependent of the employee, insured, or policyholder.~~

26 ~~(b) Each policy of group disability insurance that~~
27 ~~provides hospital, medical, or surgical expense benefits~~
28 ~~for employees, insureds, or policyholders and their~~
29 ~~dependents shall enroll as a dependent, upon application~~
30 ~~by the employer or group administrator, a domestic~~
31 ~~partner of the employee, insured, or policyholder when~~
32 ~~that employee, insured, or policyholder at any time~~
33 ~~makes an application for enrollment to the employer or~~
34 ~~group administrator.~~

35 ~~(c) For purposes of this section, the following~~
36 ~~definitions apply:~~

37 ~~(1) “Domestic partner” means an adult who has~~
38 ~~chosen to share in another’s life in an intimate and~~
39 ~~committed relationship of mutual caring. A domestic~~



1 ~~partnership shall be established when all of the following~~
2 ~~requirements are met:~~

3 ~~(A) Both persons have a common residence.~~

4 ~~(B) Both persons agree to be jointly responsible for~~
5 ~~each other's basic living expenses during the domestic~~
6 ~~partnership.~~

7 ~~(C) Neither person is married or a member of another~~
8 ~~domestic partnership.~~

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

12 ~~(E) Both persons are at least 18 years of age.~~

13 ~~(2) "Have a common residence" means that two~~
14 ~~people share the same place to live. It is not necessary that~~
15 ~~the legal right to possess the place be in both of their~~
16 ~~names. Two people may live together even if one or both~~
17 ~~have additional places to live. Domestic partners do not~~
18 ~~cease to live together if one leaves the shared place but~~
19 ~~intends to return.~~

20 ~~(3) "Basic living expenses" means basic food and~~
21 ~~shelter. It also means any other cost, such as medical care,~~
22 ~~if some or all of the cost is paid as a benefit because a~~
23 ~~person is another person's domestic partner.~~

24 ~~(4) "Joint responsibility" means that each partner~~
25 ~~agrees to provide for the other partner's basic living~~
26 ~~expenses if the partner is unable to provide for herself or~~
27 ~~himself. Anyone to whom these expenses are owed can~~
28 ~~enforce this responsibility.~~

29 ~~SEC. 3. No reimbursement is required by this act~~
30 ~~pursuant to Section 6 of Article XIII B of the California~~
31 ~~Constitution because the only costs that may be incurred~~
32 ~~by a local agency or school district will be incurred~~
33 ~~because this act creates a new crime or infraction,~~
34 ~~eliminates a crime or infraction, or changes the penalty~~
35 ~~for a crime or infraction, within the meaning of Section~~
36 ~~17556 of the Government Code, or changes the definition~~
37 ~~of a crime within the meaning of Section 6 of Article~~
38 ~~XIII B of the California Constitution.~~

39 ~~Notwithstanding Section 17580 of the Government~~
40 ~~Code, unless otherwise specified, the provisions of this act~~



1 ~~shall become operative on the same date that the act~~
 2 ~~takes effect pursuant to the California Constitution.~~ *term*
 3 *“domestic partner” shall have the same meaning as that*
 4 *term is used in Section 297 of the Family Code.*

5 *SEC. 4. No reimbursement is required by this act*
 6 *pursuant to Section 6 of Article XIII B of the California*
 7 *Constitution for certain costs that may be incurred by a*
 8 *local agency or school district because in that regard this*
 9 *act creates a new crime or infraction, eliminates a crime*
 10 *or infraction, or changes the penalty for a crime or*
 11 *infraction, within the meaning of Section 17556 of the*
 12 *Government Code, or changes the definition of a crime*
 13 *within the meaning of Section 6 of Article XIII B of the*
 14 *California Constitution.*

15 *However, notwithstanding Section 17610 of the*
 16 *Government Code, if the Commission on State Mandates*
 17 *determines that this act contains other costs mandated by*
 18 *the state, reimbursement to local agencies and school*
 19 *districts for those costs shall be made pursuant to Part 7*
 20 *(commencing with Section 17500) of Division 4 of Title*
 21 *2 of the Government Code. If the statewide cost of the*
 22 *claim for reimbursement does not exceed one million*
 23 *dollars (\$1,000,000), reimbursement shall be made from*
 24 *the State Mandates Claims Fund.*

25 *Notwithstanding Section 17580 of the Government*
 26 *Code, unless otherwise specified, the provisions of this act*
 27 *shall become operative on the same date that the act*
 28 *takes effect pursuant to the California Constitution.*

