

AMENDED IN SENATE SEPTEMBER 4, 1997

AMENDED IN SENATE JULY 9, 1997

AMENDED IN ASSEMBLY MAY 23, 1997

AMENDED IN ASSEMBLY APRIL 21, 1997

AMENDED IN ASSEMBLY APRIL 10, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1059**

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**Introduced by Assembly Member Migden**

February 27, 1997

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An act to add Section 1374.58 to the Health and Safety Code, and to add Section 10121.7 to the Insurance Code, relating to domestic partners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1059, as amended, Migden. Domestic partners.

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 administered by the Insurance Commissioner.

Existing law requires that health care service plans and disability insurers provide coverage for certain benefits and services.

This bill would require a health care service plan and a policy of disability insurance that offers hospital, medical, or surgical benefits on a group basis to offer coverage to an employer or association for a domestic partner of an employee, subscriber, or other person entitled to elect coverage to the same extent and subject to the same terms and conditions, as provided to a dependent of an employee, subscriber, or that other person. The bill would also require a health care service plan or a disability insurer that provides hospital, medical, or surgical benefits for employees, subscribers, or other persons entitled to elect coverage and their dependents to enroll as a dependent, upon application by the employer or group administrator, a domestic partner of the employee, subscriber, or that other person.

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.

~~The bill would impose additional requirements including a requirement that the subscriber or insured, upon request of the employer, plan, or insurer, provide an affidavit under penalty of perjury that the domestic partners meet the requirements of the bill. By expanding the definition of the crime of perjury, the bill would impose a state-mandated local program.~~

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 no reimbursement is required by this act for a specified reason.

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



1 1374.58. (a) A health care service plan that offers  
2 hospital, medical, or surgical coverage on a group basis  
3 shall offer coverage to employers or associations for  
4 domestic partners of employees or subscribers to the  
5 same extent, and subject to the same terms and  
6 conditions, as provided to dependents of employees or  
7 subscribers.

8 (b) A health care service plan that provides hospital,  
9 medical, or surgical benefits for employees or subscribers  
10 and their dependents shall enroll as a dependent, upon  
11 application by the employer or group administrator, a  
12 domestic partner of an employee or subscriber in  
13 accordance with terms and conditions of the group  
14 contract that apply generally to all dependents under the  
15 plan, including coordination of benefits.

16 ~~(c) For purposes of this section, the following~~  
17 ~~definitions apply:~~

18 ~~(1) "Domestic partner" means an adult individual~~  
19 ~~who has chosen to share in another adult individual's life~~  
20 ~~in an intimate and committed relationship of mutual~~  
21 ~~earring. A domestic partnership shall be established when~~  
22 ~~all of the following requirements are met:~~

23 ~~(A) Both persons certify in writing that they share the~~  
24 ~~same regular and permanent primary residence and have~~  
25 ~~shared a common residence for the previous six months.~~

26 ~~(B) Both persons agree in writing to be jointly~~  
27 ~~responsible for each other's basic living expenses during~~  
28 ~~the domestic partnership.~~

29 ~~(C) Neither person is married or a member of another~~  
30 ~~domestic partnership, nor has been married or a member~~  
31 ~~of another domestic partnership during the preceding six~~  
32 ~~months, unless such marriage or domestic partnership~~  
33 ~~terminated due to the death of a spouse or domestic~~  
34 ~~partner.~~

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

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



1 ~~(F) Both persons register as a domestic partnership~~  
2 ~~with a state or local government entity, if any such~~  
3 ~~registration is provided for at the state or local level.~~

4 ~~(2) “Share the same regular and permanent primary~~  
5 ~~residence” means that two people are cohabitants. It is~~  
6 ~~not necessary that the legal right to possess the common~~  
7 ~~primary residence be in both of their names.~~

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

12 ~~(4) “Joint responsibility” means that each partner~~  
13 ~~agrees in writing to provide for the other partner’s basic~~  
14 ~~living expenses if the partner is unable to provide for~~  
15 ~~herself or himself. Anyone to whom these expenses are~~  
16 ~~owed can enforce this responsibility.~~

17 ~~(d) (1) If a domestic partnership terminates, the~~  
18 ~~employee or subscriber cannot have another domestic~~  
19 ~~partner added to coverage until six months after the~~  
20 ~~termination of the previous domestic partnership, unless~~  
21 ~~the previous domestic partnership ended because the~~  
22 ~~domestic partner died.~~

23 ~~(2) A subscriber with coverage for a domestic partner~~  
24 ~~shall agree in writing to do the following:~~

25 ~~(A) Provide, upon request by the employer or health~~  
26 ~~care service plan, an affidavit signed under penalty of~~  
27 ~~perjury by both domestic partners certifying that they~~  
28 ~~meet the criteria for domestic partners set forth in this~~  
29 ~~section.~~

30 ~~(B) File with the employer or health care service plan~~  
31 ~~a notice of termination of the domestic partnership~~  
32 ~~within 30 days of its termination.~~

33 ~~(e)~~

34 ~~(c) Nothing in this section shall be construed to~~  
35 ~~expand the requirements of Section 4980B of Title 26 of~~  
36 ~~the United States Code, Section 1161 et seq. of Title 29 of~~  
37 ~~the United States Code, or Section 300bb-1 et seq. of Title~~  
38 ~~42 of the United States Code, as added by the~~  
39 ~~Consolidated Omnibus Budget Reconciliation Act of 1985~~  
40 ~~(Public Law 99-272), and as may be later amended.~~



1 SEC. 2. Section 10121.7 is added to the Insurance  
2 Code, to read:

3 10121.7. (a) A disability insurer that offers hospital,  
4 medical, or surgical coverage on a group basis shall offer  
5 coverage to employers or associations for domestic  
6 partners of employees or other persons entitled to elect  
7 coverage to the same extent, and subject to the same  
8 terms and conditions, as provided to dependents of  
9 employees or those other persons.

10 (b) A disability insurer that provides hospital, medical,  
11 or surgical benefits for employees or other persons  
12 entitled to elect coverage and their dependents shall  
13 enroll as a dependent, upon application by the employer  
14 or group administrator, a domestic partner of an  
15 employee or other person entitled to elect coverage in  
16 accordance with terms and conditions of the group  
17 contract that apply generally to all dependents under the  
18 policy, including coordination of benefits.

19 ~~(c) For purposes of this section, the following~~  
20 ~~definitions apply:~~

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

26 ~~(A) Both persons certify in writing that they share the~~  
27 ~~same regular and permanent primary residence and have~~  
28 ~~shared a common residence for the previous six months.~~

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

32 ~~(C) Neither person is married or a member of another~~  
33 ~~domestic partnership, nor has been married or a member~~  
34 ~~of another domestic partnership during the preceding six~~  
35 ~~months, unless such marriage or domestic partnership~~  
36 ~~terminated due to the death of a spouse or domestic~~  
37 ~~partner.~~

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



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

2 ~~(F) Both persons register as a domestic partnership~~  
3 ~~with a state or local government entity, if any such~~  
4 ~~registration is provided for at the state or local level.~~

5 ~~(2) “Share the same regular and permanent primary~~  
6 ~~residence” means that two people are cohabitants. It is~~  
7 ~~not necessary that the legal right to possess the common~~  
8 ~~primary residence be in both of their names.~~

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

13 ~~(4) “Joint responsibility” means that each partner~~  
14 ~~agrees in writing to provide for the other partner’s basic~~  
15 ~~living expenses if the partner is unable to provide for~~  
16 ~~herself or himself. Anyone to whom these expenses are~~  
17 ~~owed can enforce this responsibility.~~

18 ~~(d) (1) If a domestic partnership terminates, the~~  
19 ~~employee or other covered person cannot have another~~  
20 ~~domestic partner added to coverage until six months after~~  
21 ~~the termination of the previous domestic partnership;~~  
22 ~~unless the previous domestic partnership ended because~~  
23 ~~the domestic partner died.~~

24 ~~(2) An insured with coverage for a domestic partner~~  
25 ~~shall agree in writing to do the following:~~

26 ~~(A) Provide, upon request by the employer or insurer,~~  
27 ~~an affidavit signed under penalty of perjury by both~~  
28 ~~domestic partners certifying that they meet the criteria~~  
29 ~~for domestic partners set forth in this section.~~

30 ~~(B) File with the employer or insurer a notice of~~  
31 ~~termination of the domestic partnership within 30 days of~~  
32 ~~its termination.~~

33 ~~(e)~~

34 ~~(c) Nothing in this section shall be construed to~~  
35 ~~expand the requirements of Section 4980B of Title 26 of~~  
36 ~~the United States Code, Section 1161 et seq. of Title 29 of~~  
37 ~~the United States Code, or Section 300bb-1 et seq. of Title~~  
38 ~~42 of the United States Code, as added by the~~  
39 ~~Consolidated Omnibus Budget Reconciliation Act of 1985~~  
40 ~~(Public Law 99-272), and as may be later amended.~~



1 SEC. 3. No reimbursement is required by this act  
2 pursuant to Section 6 of Article XIII B of the California  
3 Constitution for certain costs that may be incurred by a  
4 local agency or school district because in that regard this  
5 act creates a new crime or infraction, eliminates a crime  
6 or infraction, or changes the penalty for a crime or  
7 infraction, within the meaning of Section 17556 of the  
8 Government Code, or changes the definition of a crime  
9 within the meaning of Section 6 of Article XIII B of the  
10 California Constitution.

11 Notwithstanding Section 17580 of the Government  
12 Code, unless otherwise specified, the provisions of this act  
13 shall become operative on the same date that the act  
14 takes effect pursuant to the California Constitution.

