

AMENDED IN ASSEMBLY APRIL 25, 2000

AMENDED IN ASSEMBLY APRIL 4, 2000

AMENDED IN ASSEMBLY MARCH 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2211**

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**Introduced by Assembly Member Kuehl**  
*(Coauthors: Assembly Members Migden, Romero, Shelley,*  
*and Steinberg)*

February 24, 2000

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An act to add Section 1714.01 to the Civil Code, to amend Section 377.60 of the Code of Civil Procedure, to amend Section 299.5 of the Family Code, to amend Sections ~~27491.5~~ 27491.4 and 27520 of the Government Code, to amend Sections 7100 and 7113 of the Health and Safety Code, and to amend Sections 1460, 1811, 1812, 1820, 1821, 1822, 1829, 1861, 1863, 1871, 1873, 1874, 1891, 1895, 2212, 2213, 2357, 2423, 2430, 2504, 2572, 2580, 2614.5, 2622, 2651, 2653, 2681, 2682, 2687, 2700, 2803, 2805, and 6240 of, and to add Section 37 to, the Probate Code, relating to domestic partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 2211, as amended, Kuehl. Domestic partnerships.

(1) Existing law establishes a cause of action for negligence, including the negligent infliction of emotional distress; a cause of action for wrongful death; and the duty to perform an autopsy upon the request of specified persons and to notify

specified persons with respect to the need to conduct an autopsy.

This bill would make these provisions applicable to a domestic partner as well as a surviving spouse. The bill would impose a state-mandated local program by expanding the duties of county coroners.

(2) Existing law provides for the creation of domestic partnerships.

This bill would provide that any domestic partnership entered into outside of this state, which is valid in the jurisdiction in which it was created, is valid in this state as to those rights specifically authorized by the domestic partnership laws of this state, and for these purposes includes within the definition of “domestic partnership” reciprocal beneficiaries, civil unions, or other substantially similar contracts. The bill would provide, however, that a person who has entered a domestic partnership in another state would not be eligible for certain health care coverage benefits unless that person registered as a domestic partner in this state.

(3) Existing law provides for the establishment of conservatorships.

This bill would revise and recast these provisions regarding conservatorships to provide for the participation of a domestic partner of the conservatee or proposed conservatee in these proceedings. The bill would require preference for selection of a conservator be given to the domestic partner and a person nominated by the domestic partner. The bill would require that a petition for conservatorship set forth the names and addresses of the domestic partner of the proposed conservatee or the names and addresses of any children of a predeceased domestic partner. The bill would require notice of a conservatorship hearing to be sent to the domestic partner of the proposed conservatee and would authorize the domestic partner to appear at the hearing in support or opposition to the petition. This bill also would make conforming changes.

(4) Existing law prescribes a statutory will form.

This bill would revise the statutory will form to, among other things, provide for the inclusion of a domestic partner among the beneficiaries to whom the testator may indicate a



desire to leave his or her principal residence, automobiles, household, and personal effects, or residuary estate.

(5) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 1714.01 is added to the Civil  
2 Code, to read:

3 1714.01. Domestic partners shall be entitled to  
4 recover damages for negligent infliction for emotional  
5 distress to the same extent that spouses are entitled to do  
6 so under California law.

7 SEC. 2. Section 377.60 of the Code of Civil Procedure  
8 is amended to read:

9 377.60. A cause of action for the death of a person  
10 caused by the wrongful act or neglect of another may be  
11 asserted by any of the following persons or by the  
12 decedent’s personal representative on their behalf:

13 (a) The decedent’s surviving spouse, domestic partner  
14 children, and issue of deceased children, or, if there is no  
15 surviving issue of the decedent, the persons, including the  
16 surviving spouse or domestic partner, who would be  
17 entitled to the property of the decedent by intestate  
18 succession.

19 (b) Whether or not qualified under subdivision (a), if  
20 they were dependent on the decedent, the putative  
21 spouse, children of the putative spouse, stepchildren, or



1 parents. As used in this subdivision, “putative spouse”  
2 means the surviving spouse of a void or voidable marriage  
3 who is found by the court to have believed in good faith  
4 that the marriage to the decedent was valid.

5 (c) A minor, whether or not qualified under  
6 subdivision (a) or (b), if, at the time of the decedent’s  
7 death, the minor resided for the previous 180 days in the  
8 decedent’s household and was dependent on the  
9 decedent for one-half or more of the minor’s support.

10 (d) This section applies to any cause of action arising  
11 on or after January 1, 1993.

12 (e) The addition of this section by Chapter 178 of the  
13 Statutes of 1992 was not intended to adversely affect the  
14 standing of any party having standing under prior law,  
15 and the standing of parties governed by that version of  
16 this section as added by Chapter 178 of the Statutes of 1992  
17 shall be the same as specified herein as amended by  
18 Chapter 563 of the Statutes of 1996.

19 SEC. 3. Section 299.5 of the Family Code is amended  
20 to read:

21 299.5. (a) The obligations that two people have to  
22 each other as a result of creating a domestic partnership  
23 are those described in Section 297. Registration as a  
24 domestic partner under this division shall not be evidence  
25 of, or establish, any rights existing under law other than  
26 those expressly provided to domestic partners in this  
27 division and Section 1261 of the Health and Safety Code.

28 The provisions relating to domestic partners provided  
29 in this division and Section 1261 of the Health and Safety  
30 Code shall not diminish any right under any other  
31 provision of law.

32 (b) Upon the termination of a domestic partnership,  
33 the partners, from that time forward, shall incur none of  
34 the obligations to each other as domestic partners that are  
35 created by this division and Section 1261 of the Health and  
36 Safety Code.

37 (c) The filing of a Declaration of Domestic  
38 Partnership pursuant to this division shall not change the  
39 character of property, real or personal, or any interest in  
40 any real or personal property owned by either domestic



1 partner or both of them prior to the date of filing of the  
2 declaration.

3 (d) The filing of a Declaration of Domestic  
4 Partnership pursuant to this division shall not, in and of  
5 itself, create any interest in, or rights to, any property,  
6 real or personal, owned by one partner in the other  
7 partner, including, but not limited to, rights similar to  
8 community property or quasi-community property.

9 (e) Any property or interest acquired by the partners  
10 during the domestic partnership where title is shared  
11 shall be held by the partners in proportion of interest  
12 assigned to each partner at the time the property or  
13 interest was acquired unless otherwise expressly agreed  
14 in writing by both parties. Upon termination of the  
15 domestic partnership, this subdivision shall govern the  
16 division of any property jointly acquired by the partners.

17 (f) The formation of a domestic partnership under this  
18 division shall not change the individual income or estate  
19 tax liability of each domestic partner prior to and during  
20 the partnership, unless otherwise provided under  
21 another state or federal law or regulation.

22 (g) Any domestic partnership entered into outside of  
23 this state, that would be valid by the laws of the  
24 jurisdiction under which the partnership was created,  
25 shall be valid in this state as to those rights specifically  
26 authorized by the domestic partnership laws of this state.  
27 For purposes of this section, “domestic partnership”  
28 includes reciprocal beneficiaries, civil unions, or other  
29 substantially similar contracts entered into in another  
30 state.

31 (h) Notwithstanding subdivision (g), a person who has  
32 entered a domestic partnership in another state shall not  
33 be eligible for any of the domestic partner benefits  
34 provided under Article 9 (commencing with Section  
35 22867) of Chapter 1 of Part 5 of Division 5 of Title 2 of the  
36 Government Code unless that person registers as a  
37 domestic partner in this state pursuant to Sections 298 and  
38 298.5.

39 SEC. 4. Section 27491.4 of the Government Code is  
40 amended to read:



1 27491.4. (a) For purposes of inquiry the coroner  
2 shall, within 24 hours or as soon as feasible thereafter,  
3 where the suspected cause of death is sudden infant death  
4 syndrome and, in all other cases, the coroner may, in his  
5 or her discretion, take possession of the body, which shall  
6 include the authority to exhume the body, order it  
7 removed to a convenient place, and make or cause to be  
8 made a postmortem examination or autopsy thereon, and  
9 make or cause to be made an analysis of the stomach,  
10 stomach contents, blood, organs, fluids, or tissues of the  
11 body. The detailed medical findings resulting from an  
12 inspection of the body or autopsy by an examining  
13 physician shall be either reduced to writing or  
14 permanently preserved on recording discs or other  
15 similar recording media, shall include all positive and  
16 negative findings pertinent to establishing the cause of  
17 death in accordance with medicolegal practice and this,  
18 along with the written opinions and conclusions of the  
19 examining physician, shall be included in the coroner's  
20 record of the death. The coroner shall have the right to  
21 retain only those tissues of the body removed at the time  
22 of the autopsy as may, in his or her opinion, be necessary  
23 or advisable to the inquiry into the case, or for the  
24 verification of his or her findings. No person may be  
25 present during the performance of a coroner's autopsy  
26 without the express consent of the coroner.

27 (b) In any case in which the coroner knows, or has  
28 reason to believe, that the deceased has made valid  
29 provision for the disposition of his or her body or a part  
30 or parts thereof for medical or scientific purposes in  
31 accordance with Chapter 3.5 (commencing with Section  
32 7150) of Part 1 of Division 7 of the Health and Safety Code,  
33 the coroner shall neither perform nor authorize any other  
34 person to perform an autopsy on the body unless the  
35 coroner has contacted or attempted to contact the  
36 physician last in attendance to the deceased. If the  
37 physician cannot be contacted, the coroner shall then  
38 notify or attempt to notify one of the following of the need  
39 for an autopsy to determine the cause of death: (1) the  
40 surviving spouse or domestic partner; (2) a surviving



1 child or parent; (3) a surviving brother or sister; (4) any  
2 other kin or person who has acquired the right to control  
3 the disposition of the remains. Following a period of 24  
4 hours after attempting to contact the physician last in  
5 attendance and notifying or attempting to notify one of  
6 the responsible parties listed above, the coroner may  
7 perform or authorize the performance of an autopsy, as  
8 otherwise authorized or required by law.

9 (c) Nothing in this section shall be deemed to prohibit  
10 the discretion of the coroner to conduct autopsies upon  
11 any victim of sudden, unexpected, or unexplained death  
12 or any death known or suspected of resulting from an  
13 accident, suicide, or apparent criminal means, or other  
14 death, as described in Section 27491.

15 SEC. 5. Section 27520 of the Government Code is  
16 amended to read:

17 27520. The coroner shall perform or cause to be  
18 performed an autopsy on a decedent if the surviving  
19 spouse or domestic partner requests him or her to do so  
20 in writing. If there is no surviving spouse or domestic  
21 partner, the coroner shall perform the autopsy if  
22 requested to do so in writing by a surviving child or  
23 parent, or if there is no surviving child or parent, by the  
24 next of kin of the deceased. The cost of the autopsy shall  
25 be borne by the person requesting that it be performed.

26 SEC. 6. Section 7100 of the Health and Safety Code is  
27 amended to read:

28 7100. (a) The right to control the disposition of the  
29 remains of a deceased person, the location and conditions  
30 of interment, and arrangements for funeral goods and  
31 services to be provided, unless other directions have been  
32 given by the decedent pursuant to Section 7100.1, vests in,  
33 and the duty of disposition and the liability for the  
34 reasonable cost of disposition of the remains devolves  
35 upon, the following in the order named:

36 (1) An agent under a power of attorney for health care  
37 governed by Division 4.7 (commencing with Section  
38 4600) of the Probate Code.

39 (2) The competent surviving spouse or domestic  
40 partner.



1 (3) The sole surviving competent adult child of the  
2 decedent, or if there is more than one competent adult  
3 child of the decedent, the majority of the surviving  
4 competent adult children. However, less than one-half of  
5 the surviving adult children shall be vested with the  
6 rights and duties of this section if they have used  
7 reasonable efforts to notify all other surviving competent  
8 adult children of their instructions and are not aware of  
9 any opposition to those instructions on the part of more  
10 than one-half of all surviving competent adult children.

11 (4) The surviving competent parent or parents of the  
12 decedent. If one of the surviving competent parents is  
13 absent, the remaining competent parent shall be vested  
14 with the rights and duties of this section after reasonable  
15 efforts have been unsuccessful in locating the absent  
16 surviving competent parent.

17 (5) The surviving competent adult person or persons  
18 respectively in the next degrees of kindred. If there is  
19 more than one surviving competent adult person of the  
20 same degree of kindred, the majority of those persons.  
21 Less than the majority of surviving competent adult  
22 persons of the same degree of kindred shall be vested  
23 with the rights and duties of this section if those persons  
24 have used reasonable efforts to notify all other surviving  
25 competent adult persons of the same degree of kindred  
26 of their instructions and are not aware of any opposition  
27 to those instructions on the part of one-half or more of all  
28 surviving competent adult persons of the same degree of  
29 kindred.

30 (6) The public administrator when the deceased has  
31 sufficient assets.

32 (b) (1) If any person to whom the right of control has  
33 vested pursuant to subdivision (a) has been charged with  
34 first or second degree murder or voluntary manslaughter  
35 in connection with the decedent's death and those  
36 charges are known to the funeral director or cemetery  
37 authority, the right of control is relinquished and passed  
38 on to the next of kin in accordance with subdivision (a).



1 (2) If the charges against the person are dropped, or  
2 if the person is acquitted of the charges, the right of  
3 control is returned to the person.

4 (3) Notwithstanding this subdivision, no person who  
5 has been charged with first or second degree murder or  
6 voluntary manslaughter in connection with the  
7 decedent's death to whom the right of control has not  
8 been returned pursuant to paragraph (2) shall have any  
9 right to control disposition pursuant to subdivision (a)  
10 which shall be applied, to the extent the funeral director  
11 or cemetery authority know about the charges, as if that  
12 person did not exist.

13 (c) A funeral director or cemetery authority shall have  
14 complete authority to control the disposition of the  
15 remains, and to proceed under this chapter to recover  
16 usual and customary charges for the disposition, when  
17 both of the following apply:

18 (1) Either of the following applies:

19 (A) The funeral director or cemetery authority has  
20 knowledge that none of the persons described in  
21 paragraphs (1) to (5), inclusive, of subdivision (a) exists.

22 (B) None of the persons described in paragraphs (1)  
23 to (5), inclusive, of subdivision (a) can be found after  
24 reasonable inquiry, or contacted by reasonable means.

25 (2) The public administrator fails to assume  
26 responsibility for disposition of the remains within seven  
27 days after having been given written notice of the facts.  
28 Written notice may be delivered by hand, U.S. mail,  
29 facsimile transmission, or telegraph.

30 (d) The liability for the reasonable cost of final  
31 disposition devolves jointly and severally upon all kin of  
32 the decedent in the same degree of kindred and upon the  
33 estate of the decedent. However, if a person accepts the  
34 gift of an entire body under subdivision (a) of Section  
35 7155.5, that person, subject to the terms of the gift, shall  
36 be liable for the reasonable cost of final disposition of the  
37 decedent.

38 (e) This section shall be administered and construed to  
39 the end that the expressed instructions of the decedent



1 or the person entitled to control the disposition shall be  
2 faithfully and promptly performed.

3 (f) A funeral director or cemetery authority shall not  
4 be liable to any person or persons for carrying out the  
5 instructions of the decedent or the person entitled to  
6 control the disposition.

7 (g) For purposes of this section, “adult” means an  
8 individual who has attained 18 years of age, “child” means  
9 a natural or adopted child of the decedent, and  
10 “competent” means an individual who has not been  
11 declared incompetent by a court of law or who has been  
12 declared competent by a court of law following a  
13 declaration of incompetence.

14 SEC. 7. Section 7113 of the Health and Safety Code is  
15 amended to read:

16 7113. A cemetery authority or licensed funeral  
17 director or a licensed hospital or its authorized personnel  
18 may permit or assist, and a physician may perform, an  
19 autopsy of any remains in its or his custody if the  
20 decedent, prior to his death, authorizes an autopsy in his  
21 will or other written instrument, or upon the receipt of  
22 a written authorization, telegram, or a verbal  
23 authorization obtained by telephone and recorded on  
24 tape or other recording device, from a person  
25 representing himself to be any of the following:

26 (a) The surviving spouse or domestic partner; (b) a  
27 surviving child or parent; (c) a surviving brother or sister;  
28 (d) any other kin or person who has acquired the right to  
29 control the disposition of the remains; (e) a public  
30 administrator; (f) a coroner or any other duly authorized  
31 public officer. A cemetery authority or a licensed funeral  
32 director or a licensed hospital or its authorized personnel  
33 is not liable for permitting or assisting, and a physician is  
34 not liable for performing, an autopsy pursuant to ~~such~~  
35 *that* authorization unless he or it has actual notice that  
36 ~~such~~ *the* representation is untrue at the time the autopsy  
37 is performed. If such authorization is contained in a will,  
38 the autopsy may be performed regardless of the validity  
39 of the will in other respects or of the fact that the will may



1 not be offered for or admitted to probate until a later  
2 date.

3 This section shall not authorize the obtaining of a verbal  
4 authorization by telephone and recorded on tape or other  
5 recording device for an autopsy of a deceased person if it  
6 is made known to the physician who is to perform the  
7 autopsy that the deceased was, at the time of his death, a  
8 member of a religion, church, or denomination which  
9 relies solely upon prayer for the healing of disease.

10 SEC. 8. Section 37 is added to the Probate Code, to  
11 read:

12 37. “Domestic partner” means a person who has filed  
13 a “Declaration of Domestic Partnership” with the  
14 Secretary of State pursuant to Division 2.5 (commencing  
15 with Section 297) of the Family Code, as long as that  
16 domestic partnership has not been terminated pursuant  
17 to Section 299 of the Family Code.

18 SEC. 9. Section 1460 of the Probate Code is amended  
19 to read:

20 1460. (a) Subject to Sections 1202 and 1203, if notice  
21 of hearing is required under this division but the  
22 applicable provision does not fix the manner of giving  
23 notice of hearing, the notice of the time and place of the  
24 hearing shall be given at least 15 days before the day of  
25 the hearing as provided in this section.

26 (b) Subject to subdivision (e), the petitioner, who  
27 includes for the purposes of this section a person filing a  
28 petition, report, or account, shall cause the notice of  
29 hearing to be mailed to each of the following persons:

- 30 (1) The guardian or conservator.
- 31 (2) The ward or the conservatee.
- 32 (3) The spouse of the ward or conservatee, if the ward  
33 or conservatee has a spouse, or the domestic partner of  
34 the conservatee, if the conservatee has a domestic  
35 partner.
- 36 (4) Any person who has requested special notice of the  
37 matter, as provided in Section 2700.
- 38 (5) For any hearing on a petition to terminate a  
39 guardianship, to accept the resignation of, or to remove



1 the guardian, the persons described in subdivision (c) of  
2 Section 1510.

3 (6) For any hearing on a petition to terminate a  
4 conservatorship, to accept the resignation of, or to  
5 remove the conservator, the persons described in  
6 subdivision (b) of Section 1821.

7 (c) The clerk of the court shall cause the notice of the  
8 hearing to be posted as provided in Section 1230 if the  
9 posting is required by subdivision (c) of Section 2543  
10 (sales).

11 (d) Except as provided in subdivision (e), nothing in  
12 this section excuses compliance with the requirements  
13 for notice to a person who has requested special notice  
14 pursuant to Chapter 10 (commencing with Section 2700)  
15 of Part 4.

16 (e) The court for good cause may dispense with the  
17 notice otherwise required to be given to a person as  
18 provided in this section.

19 SEC. 10. Section 1811 of the Probate Code is amended  
20 to read:

21 1811. (a) The spouse, domestic partner, or an adult  
22 child, parent, brother, or sister of the proposed  
23 conservatee may nominate a conservator in the petition  
24 or at the hearing on the petition.

25 (b) The spouse, domestic partner, or a parent of the  
26 proposed conservatee may nominate a conservator in a  
27 writing signed either before or after the petition is filed  
28 and that nomination remains effective notwithstanding  
29 the subsequent legal incapacity or death of the spouse,  
30 domestic partner, or parent, except that a nomination by  
31 the spouse becomes void upon dissolution or an  
32 adjudication of nullity of their marriage and a nomination  
33 by a domestic partner becomes void upon termination of  
34 the domestic partnership.

35 SEC. 11. Section 1812 of the Probate Code is amended  
36 to read:

37 1812. (a) Subject to Sections 1810 and 1813, the  
38 selection of a conservator of the person or estate, or both,  
39 is solely in the discretion of the court and, in making the



1 selection, the court is to be guided by what appears to be  
2 for the best interests of the proposed conservatee.

3 (b) Subject to Sections 1810 and 1813, of persons  
4 equally qualified in the opinion of the court to  
5 appointment as conservator of the person or estate or  
6 both, preference is to be given in the following order:

7 (1) The spouse or domestic partner of the proposed  
8 conservatee or the person nominated by the spouse or  
9 domestic partner pursuant to Section 1811.

10 (2) An adult child of the proposed conservatee or the  
11 person nominated by the child pursuant to Section 1811.

12 (3) A parent of the proposed conservatee or the  
13 person nominated by the parent pursuant to Section 1811.

14 (4) A brother or sister of the proposed conservatee or  
15 the person nominated by the brother or sister pursuant  
16 to Section 1811.

17 (5) Any other person or entity eligible for  
18 appointment as a conservator under this code or, if there  
19 is no such person or entity willing to act as a conservator,  
20 under the Welfare and Institutions Code.

21 (c) The preference for any nominee for appointment  
22 under paragraphs (2), (3), and (4) of subdivision (b) is  
23 subordinate to the preference for any other parent, child,  
24 brother, or sister in that class.

25 SEC. 12. Section 1820 of the Probate Code is amended  
26 to read:

27 1820. (a) A petition for the appointment of a  
28 conservator may be filed by any of the following:

29 (1) The proposed conservatee.

30 (2) The spouse or domestic partner of the proposed  
31 conservatee.

32 (3) A relative of the proposed conservatee.

33 (4) Any interested state or local entity or agency of this  
34 state or any interested public officer or employee of this  
35 state or of a local public entity of this state.

36 (5) Any other interested person or friend of the  
37 proposed conservatee.

38 (b) If the proposed conservatee is a minor, the petition  
39 may be filed during his or her minority so that the  
40 appointment of a conservator may be made effective



1 immediately upon the minor's attaining the age of  
2 majority. An existing guardian of the minor may be  
3 appointed as conservator under this part upon the  
4 minor's attaining the age of majority, whether or not the  
5 guardian's accounts have been settled.

6 (c) A creditor of the proposed conservatee may not  
7 file a petition for appointment of a conservator unless the  
8 creditor is a person described in paragraph (2), (3), or (4)  
9 of subdivision (a).

10 SEC. 13. Section 1821 of the Probate Code is amended  
11 to read:

12 1821. (a) The petition shall request that a  
13 conservator be appointed for the person or estate, or  
14 both, shall specify the name, address, and telephone  
15 number of the proposed conservator and the name,  
16 address, and telephone number of the proposed  
17 conservatee, and state the reasons why a conservatorship  
18 is necessary. Unless the petitioner is a bank or other entity  
19 authorized to conduct the business of a trust company,  
20 the petitioner shall also file supplemental information as  
21 to why the appointment of a conservator is required. The  
22 supplemental information to be submitted shall include  
23 a brief statement of facts addressed to each of the  
24 following categories:

25 (1) The inability of the proposed conservatee to  
26 properly provide for his or her needs for physical health,  
27 food, clothing, and shelter.

28 (2) The location of the proposed conservatee's  
29 residence and the ability of the proposed conservatee to  
30 live in the residence while under conservatorship.

31 (3) Alternatives to conservatorship considered by the  
32 petitioner and reasons why those alternatives are not  
33 available.

34 (4) Health or social services provided to the proposed  
35 conservatee during the year preceding the filing of the  
36 petition, when the petitioner has information as to those  
37 services.

38 (5) The inability of the proposed conservatee to  
39 substantially manage his or her own financial resources,  
40 or to resist fraud or undue influence.



1 The facts required to address the categories set forth in  
2 paragraphs (1) to (5), inclusive, shall be set forth by the  
3 petitioner when he or she has knowledge of the facts or  
4 by the declarations or affidavits of other persons having  
5 knowledge of those facts.

6 Where any of the categories set forth in paragraphs (1)  
7 to (5), inclusive, are not applicable to the proposed  
8 conservatorship, the petitioner shall so indicate and state  
9 on the supplemental information form the reasons  
10 therefor.

11 The Judicial Council shall develop a supplemental  
12 information form for the information required pursuant  
13 to paragraphs (1) to (5), inclusive, after consultation with  
14 individuals or organizations approved by the Judicial  
15 Council, who represent public conservators, court  
16 investigators, the State Bar, specialists with experience in  
17 performing assessments and coordinating  
18 community-based services, and legal services for the  
19 elderly and disabled.

20 The supplemental information form shall be separate  
21 and distinct from the form for the petition. The  
22 supplemental information shall be confidential and shall  
23 be made available only to parties, persons given notice of  
24 the petition who have requested this supplemental  
25 information or who have appeared in the proceedings,  
26 their attorneys, and the court. The court shall have  
27 discretion at any other time to release the supplemental  
28 information to other persons if it would serve the interests  
29 of the conservatee. The county clerk shall make provision  
30 for limiting disclosure of the supplemental information  
31 exclusively to persons entitled thereto under this section.

32 (b) The petition shall set forth, so far as they are known  
33 to the petitioner, the names and addresses of the spouse  
34 or domestic partner, and of the relatives of the proposed  
35 conservatee within the second degree. If no spouse or  
36 domestic partner of the proposed conservatee, or  
37 relatives of the proposed conservatee within the second  
38 degree are known to the petitioner, the petition shall set  
39 forth, so far as they are known to the petitioner, the names  
40 and addresses of the following persons who, for the



1 purposes of Section 1822, shall all be deemed to be  
2 relatives:

3 (1) A spouse or domestic partner of a predeceased  
4 parent of a proposed conservatee.

5 (2) The children of a predeceased spouse or domestic  
6 partner of a proposed conservatee.

7 (3) The siblings of the proposed conservatee's parents,  
8 if any, but if none, then the natural and adoptive children  
9 of the proposed conservatee's parents' siblings.

10 (4) The natural and adoptive children of the proposed  
11 conservatee's siblings.

12 (c) If the petition is filed by a person other than the  
13 proposed conservatee, the petition shall state whether or  
14 not the petitioner is a creditor or debtor, or the agent of  
15 a creditor or debtor, of the proposed conservatee.

16 (d) If the proposed conservatee is a patient in or on  
17 leave of absence from a state institution under the  
18 jurisdiction of the State Department of Mental Health or  
19 the State Department of Developmental Services and  
20 that fact is known to the petitioner, the petition shall state  
21 that fact and name the institution.

22 (e) The petition shall state, so far as is known to the  
23 petitioner, whether or not the proposed conservatee is  
24 receiving or is entitled to receive benefits from the  
25 Veterans Administration and the estimated amount of  
26 the monthly benefit payable by the Veterans  
27 Administration for the proposed conservatee.

28 (f) The petition may include an application for any  
29 order or orders authorized under this division, including,  
30 but not limited to, orders under Chapter 4 (commencing  
31 with Section 1870).

32 (g) The petition may include a further statement that  
33 the proposed conservatee is not willing to attend the  
34 hearing on the petition, does not wish to contest the  
35 establishment of the conservatorship, and does not object  
36 to the proposed conservator or prefer that another person  
37 act as conservator.

38 (h) In the case of an allegedly developmentally  
39 disabled adult the petition shall set forth the following:



1 (1) The nature and degree of the alleged disability, the  
2 specific duties and powers requested by or for the limited  
3 conservator, and the limitations of civil and legal rights  
4 requested to be included in the court's order of  
5 appointment.

6 (2) Whether or not the proposed limited conservatee  
7 is or is alleged to be developmentally disabled.

8 Reports submitted pursuant to Section 416.8 of the  
9 Health and Safety Code meet the requirements of this  
10 section, and conservatorships filed pursuant to Article 7.5  
11 (commencing with Section 416) of Part 1 of Division 1 of  
12 the Health and Safety Code are exempt from providing  
13 the supplemental information required by this section, so  
14 long as the guidelines adopted by the State Department  
15 of Developmental Services for regional centers require  
16 the same information which is required pursuant to this  
17 section.

18 SEC. 14. Section 1822 of the Probate Code is amended  
19 to read:

20 1822. (a) At least 15 days before the hearing on the  
21 petition for appointment of a conservator, notice of the  
22 time and place of the hearing shall be given as provided  
23 in this section. The notice shall be accompanied by a copy  
24 of the petition. The court may not shorten the time for  
25 giving the notice of hearing under this section.

26 (b) Notice shall be mailed to the following persons:

27 (1) The spouse, if any, or domestic partner, if any, of  
28 the proposed conservatee at the address stated in the  
29 petition.

30 (2) The relatives named in the petition at their  
31 addresses stated in the petition.

32 (c) If notice is required by Section 1461 to be given to  
33 the Director of Mental Health or the Director of  
34 Developmental Services, notice shall be mailed as so  
35 required.

36 (d) If the petition states that the proposed conservatee  
37 is receiving or is entitled to receive benefits from the  
38 Veterans Administration, notice shall be mailed to the  
39 office of the Veterans Administration referred to in  
40 Section 1461.5.



1 (e) If the proposed conservatee is a person with  
2 developmental disabilities, at least 30 days before the day  
3 of the hearing on the petition, the petitioner shall mail a  
4 notice of the hearing and a copy of the petition to the  
5 regional center identified in Section 1827.5.

6 SEC. 15. Section 1829 of the Probate Code is amended  
7 to read:

8 1829. Any of the following persons may appear at the  
9 hearing to support or oppose the petition:

- 10 (a) The proposed conservatee.
- 11 (b) The spouse or domestic partner of the proposed  
12 conservatee.
- 13 (c) A relative of the proposed conservatee.
- 14 (d) Any interested person or friend of the proposed  
15 conservatee.

16 SEC. 16. Section 1861 of the Probate Code is amended  
17 to read:

18 1861. (a) A petition for the termination of the  
19 conservatorship may be filed by any of the following:

- 20 (1) The conservator.
- 21 (2) The conservatee.
- 22 (3) The spouse, or domestic partner, or any relative or  
23 friend of the conservatee or other interested person.

24 (b) The petition shall state facts showing that the  
25 conservatorship is no longer required.

26 SEC. 17. Section 1863 of the Probate Code is amended  
27 to read:

28 1863. (a) The court shall hear and determine the  
29 matter according to the law and procedure relating to the  
30 trial of civil actions, including trial by jury if demanded.  
31 The conservator, the conservatee, or the spouse, or  
32 domestic partner, or any relative or friend of the  
33 conservatee or other interested person may appear and  
34 support or oppose the petition.

35 (b) If the court determines that the conservatorship is  
36 no longer required or that grounds for establishment of  
37 a conservatorship of the person or estate, or both, no  
38 longer exist, the court shall make this finding and shall  
39 enter judgment terminating the conservatorship  
40 accordingly.



1 (c) At the hearing, or thereafter on further notice and  
2 hearing, the conservator may be discharged and the bond  
3 given by the conservator may be exonerated upon the  
4 settlement and approval of the conservator's final  
5 account by the court.

6 (d) Termination of conservatorship does not preclude  
7 a new proceeding for appointment of a conservator on  
8 the same or other grounds.

9 SEC. 18. Section 1871 of the Probate Code is amended  
10 to read:

11 1871. Nothing in this article shall be construed to deny  
12 a conservatee any of the following:

13 (a) The right to control an allowance provided under  
14 Section 2421.

15 (b) The right to control wages or salary to the extent  
16 provided in Section 2601.

17 (c) The right to make a will.

18 (d) The right to enter into transactions to the extent  
19 reasonable to provide the necessities of life to the  
20 conservatee and the spouse and minor children of the  
21 conservatee and to provide the basic living expenses, as  
22 defined in Section 297 of the Family Code, to the domestic  
23 partner of the conservatee.

24 SEC. 19. Section 1873 of the Probate Code is amended  
25 to read:

26 1873. (a) In the order appointing the conservator or  
27 upon a petition filed under Section 1874, the court may by  
28 order authorize the conservatee, subject to Section 1876,  
29 to enter into transactions or types of transactions as may  
30 be appropriate in the circumstances of the particular  
31 conservatee and conservatorship estate. The court, by  
32 order, may modify the legal capacity a conservatee would  
33 otherwise have under Section 1872 by broadening or  
34 restricting the power of the conservatee to enter into  
35 transactions or types of transactions as may be  
36 appropriate in the circumstances of the particular  
37 conservatee and conservatorship estate.

38 (b) In an order made under this section, the court may  
39 include limitations or conditions on the exercise of the  
40 authority granted to the conservatee as the court



1 determines to be appropriate including, but not limited  
2 to, the following:

3 (1) A requirement that for specific types of  
4 transactions or for all transactions authorized by the  
5 order, the conservatee obtain prior approval of the  
6 transaction by the court or conservator before exercising  
7 the authority granted by the order.

8 (2) A provision that the conservator has the right to  
9 avoid any transaction made by the conservatee pursuant  
10 to the authority of the order if the transaction is not one  
11 into which a reasonably prudent person might enter.

12 (c) The court, in its discretion, may provide in the  
13 order that, unless extended by subsequent order of the  
14 court, the order or specific provisions of the order  
15 terminate at a time specified in the order.

16 (d) An order under this section continues in effect  
17 until the earliest of the following times:

18 (1) The time specified in the order, if any.

19 (2) The time the order is modified or revoked.

20 (3) The time the conservatorship of the estate is  
21 terminated.

22 (e) An order under this section may be modified or  
23 revoked upon petition filed by the conservator,  
24 conservatee, the spouse or domestic partner of the  
25 conservatee, or any relative or friend of the conservatee,  
26 or any interested person. Notice of the hearing on the  
27 petition shall be given for the period and in the manner  
28 provided in Chapter 3 (commencing with Section 1460)  
29 of Part 1.

30 SEC. 20. Section 1874 of the Probate Code is amended  
31 to read:

32 1874. (a) After a conservator has been appointed, a  
33 petition requesting an order under Section 1873 may be  
34 filed by any of the following:

35 (1) The conservator.

36 (2) The conservatee.

37 (3) The spouse, domestic partner, or any relative or  
38 friend of the conservatee.



1 (b) Notice of the hearing on the petition shall be given  
2 for the period and in the manner provided in Chapter 3  
3 (commencing with Section 1460) of Part 1.

4 SEC. 21. Section 1891 of the Probate Code is amended  
5 to read:

6 1891. (a) A petition may be filed under this article  
7 requesting that the court make an order under Section  
8 1880 or that the court modify or revoke an order made  
9 under Section 1880. The petition shall state facts showing  
10 that the order requested is appropriate.

11 (b) The petition may be filed by any of the following:

12 (1) The conservator.

13 (2) The conservatee.

14 (3) The spouse, domestic partner, or any relative or  
15 friend of the conservatee.

16 (c) The petition shall set forth, so far as they are known  
17 to the petitioner, the names and addresses of the spouse  
18 or domestic partner and of the relatives of the  
19 conservatee within the second degree.

20 SEC. 22. Section 1895 of the Probate Code is amended  
21 to read:

22 1895. (a) The conservatee, the spouse, the domestic  
23 partner, any relative, or any friend of the conservatee, the  
24 conservator, or any other interested person may appear  
25 at the hearing to support or oppose the petition.

26 (b) Except where the conservatee is absent from the  
27 hearing and is not required to attend the hearing under  
28 the provisions of Section 1893 and any showing required  
29 by Section 1893 has been made, the court shall, prior to  
30 granting the petition, inform the conservatee of all of the  
31 following:

32 (1) The nature and purpose of the proceeding.

33 (2) The nature and effect on the conservatee's basic  
34 rights of the order requested.

35 (3) The conservatee has the right to oppose the  
36 petition, to be represented by legal counsel if the  
37 conservatee so chooses, and to have legal counsel  
38 appointed by the court if unable to retain legal counsel.

39 (c) After the court informs the conservatee of the  
40 matters listed in subdivision (b) and prior to granting the



1 petition, the court shall consult the conservatee to  
2 determine the conservatee’s opinion concerning the  
3 order requested in the petition.

4 SEC. 23. Section 2212 of the Probate Code is amended  
5 to read:

6 2212. The petition for transfer may be filed only by  
7 one or more of the following:

- 8 (a) The guardian or conservator.
- 9 (b) The ward or conservatee.
- 10 (c) The spouse of the ward or the spouse or domestic  
11 partner of the conservatee.
- 12 (d) A relative or friend of the ward or conservatee.
- 13 (e) Any other interested person.

14 SEC. 24. Section 2213 of the Probate Code is amended  
15 to read:

16 2213. The petition for transfer shall set forth all of the  
17 following:

- 18 (a) The county to which the proceeding is to be  
19 transferred.
- 20 (b) The name and address of the ward or conservatee.
- 21 (c) A brief description of the character, value, and  
22 location of the property of the ward or conservatee.
- 23 (d) The reasons for the transfer.
- 24 (e) The names and addresses, so far as they are known  
25 to the petitioner, of the spouse and of the relatives of the  
26 ward within the second degree, or of the spouse or  
27 domestic partner and of the relatives of the conservatee  
28 within the second degree.
- 29 (f) The name and address of the guardian or  
30 conservator if other than the petitioner.

31 SEC. 25. Section 2357 of the Probate Code is amended  
32 to read:

- 33 2357. (a) As used in this section:
- 34 (1) “Guardian or conservator” includes a temporary  
35 guardian of the person or a temporary conservator of the  
36 person.
- 37 (2) “Ward or conservatee” includes a person for whom  
38 a temporary guardian of the person or temporary  
39 conservator of the person has been appointed.



1 (b) If the ward or conservatee requires medical  
2 treatment for an existing or continuing medical condition  
3 which is not authorized to be performed upon the ward  
4 or conservatee under Section 2252, 2353, 2354, or 2355,  
5 and the ward or conservatee is unable to give an informed  
6 consent to this medical treatment, the guardian or  
7 conservator may petition the court under this section for  
8 an order authorizing the medical treatment and  
9 authorizing the guardian or conservator to consent on  
10 behalf of the ward or conservatee to the medical  
11 treatment.

12 (c) The petition shall state, or set forth by medical  
13 affidavit attached thereto, all of the following so far as is  
14 known to the petitioner at the time the petition is filed:

15 (1) The nature of the medical condition of the ward or  
16 conservatee which requires treatment.

17 (2) The recommended course of medical treatment  
18 which is considered to be medically appropriate.

19 (3) The threat to the health of the ward or conservatee  
20 if authorization to consent to the recommended course of  
21 treatment is delayed or denied by the court.

22 (4) The predictable or probable outcome of the  
23 recommended course of treatment.

24 (5) The medically available alternatives, if any, to the  
25 course of treatment recommended.

26 (6) The efforts made to obtain an informed consent  
27 from the ward or conservatee.

28 (7) The name and addresses, so far as they are known  
29 to the petitioner, of the persons specified in subdivision  
30 (c) of Section 1510 in a guardianship proceeding or  
31 subdivision (b) of Section 1821 in a conservatorship  
32 proceeding.

33 (d) Upon the filing of the petition, unless an attorney  
34 is already appointed the court shall appoint the public  
35 defender or private counsel under Section 1471, to  
36 consult with and represent the ward or conservatee at the  
37 hearing on the petition and, if that appointment is made,  
38 Section 1472 applies.

39 (e) Notice of the ~~Petition~~ *petition* shall be given as  
40 follows:



1 (1) Not less than 15 days before the hearing, notice of  
2 the time and place of the hearing, and a copy of the  
3 petition shall be personally served on the ward, if 12 years  
4 of age or older, or the conservatee, and on the attorney  
5 for the ward or conservatee.

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

9 (A) The spouse or domestic partner, if any, of the  
10 proposed conservatee at the address stated in the  
11 petition.

12 (B) The relatives named in the petition at their  
13 addresses stated in the petition.

14 (f) For good cause, the court may shorten or waive  
15 notice of the hearing as provided by this section. In  
16 determining the period of notice to be required, the court  
17 shall take ~~to~~ into account both of the following:

18 (1) The existing medical facts and circumstances set  
19 forth in the petition or in a medical affidavit attached to  
20 the petition or in a medical affidavit presented to the  
21 court.

22 (2) The desirability, where the condition of the ward  
23 or conservatee permits, of giving adequate notice to all  
24 interested persons.

25 (g) Notwithstanding subdivisions (e) and (f), the  
26 matter may be submitted for the determination of the  
27 court upon proper and sufficient medical affidavits or  
28 declarations if the attorney for the petitioner and the  
29 attorney for the ward or conservatee so stipulate and  
30 further stipulate that there remains no issue of fact to be  
31 determined.

32 (h) The court may make an order authorizing the  
33 recommended course of medical treatment of the ward  
34 or conservatee and authorizing the guardian or  
35 conservator to consent on behalf of the ward or  
36 conservatee to the recommended course of medical  
37 treatment for the ward or conservatee if the court  
38 determines from the evidence all of the following:



1 (1) The existing or continuing medical condition of  
2 the ward or conservatee requires the recommended  
3 course of medical treatment.

4 (2) If untreated, there is a probability that the  
5 condition will become life-endangering or result in a  
6 serious threat to the physical or mental health of the ward  
7 or conservatee.

8 (3) The ward or conservatee is unable to give an  
9 informed consent to the recommended course of  
10 treatment.

11 (i) Upon petition of the ward or conservatee or other  
12 interested person, the court may order that the guardian  
13 or conservator obtain or consent to, or obtain and consent  
14 to, specified medical treatment to be performed upon the  
15 ward or conservatee. Notice of the hearing on the petition  
16 under this subdivision shall be given for the period and in  
17 the manner provided in Chapter 3 (commencing with  
18 Section 1460) of Part 1.

19 SEC. 26. Section 2423 of the Probate Code is amended  
20 to read:

21 2423. (a) Upon petition of the conservator, the  
22 conservatee, the spouse or domestic partner of the  
23 conservatee, or a relative within the second degree of the  
24 conservatee, the court may by order authorize or direct  
25 the conservator to pay and distribute surplus income of  
26 the estate or any part of the surplus income (not used for  
27 the support, maintenance, and education of the  
28 conservatee and of those legally entitled to support,  
29 maintenance, or education from the conservatee) to the  
30 spouse or domestic partner of the conservatee and to  
31 relatives within the second degree of the conservatee  
32 whom the conservatee would, in the judgment of the  
33 court, have aided but for the existence of the  
34 conservatorship. The court in ordering payments under  
35 this section may impose conditions if the court  
36 determines that the conservatee would have imposed the  
37 conditions if the conservatee had the capacity to act.

38 (b) The granting of the order and the amounts and  
39 proportions of the payments are discretionary with the  
40 court, but the court shall consider all of the following:



1 (1) The amount of surplus income available after  
2 adequate provision has been made for the comfortable  
3 and suitable support, maintenance, and education of the  
4 conservatee and of those legally entitled to support,  
5 maintenance, or education from the conservatee.

6 (2) The circumstances and condition of life to which  
7 the conservatee and the spouse or domestic partner and  
8 relatives have been accustomed.

9 (3) The amount that the conservatee would in the  
10 judgment of the court have allowed the spouse or  
11 domestic partner and relatives but for the existence of the  
12 conservatorship.

13 (c) Notice of the hearing on the petition shall be given  
14 for the period and in the manner provided in Chapter 3  
15 (commencing with Section 1460) of Part 1.

16 SEC. 27. Section 2430 of the Probate Code is amended  
17 to read:

18 2430. (a) Subject to subdivisions (b) and (c), the  
19 guardian or conservator shall pay the following from any  
20 principal and income of the estate:

21 (1) The debts incurred by the ward or conservatee  
22 before creation of the guardianship or conservatorship,  
23 giving priority to the debts described in Section 2431 to  
24 the extent required by that section.

25 (2) The debts incurred by the ward or conservatee  
26 during the guardianship or conservatorship to provide  
27 the necessities of life to the ward or conservatee, and to  
28 the spouse and minor children of the ward or  
29 conservatee, to the extent the debt is reasonable. Also, the  
30 debts reasonably incurred by the conservatee during the  
31 conservatorship to provide the basic living expenses, as  
32 defined in Section 297 of the Family Code, to the domestic  
33 partner of the conservatee. The guardian or conservator  
34 may deduct the amount of any payments for these debts  
35 from any allowance otherwise payable to the ward or  
36 conservatee.

37 (3) In the case of a conservatorship, any other debt  
38 incurred by the conservatee during the conservatorship  
39 only if the debt satisfies the requirements of any order



1 made under Chapter 4 (commencing with Section 1870)  
2 of Part 3.

3 (4) The reasonable expenses incurred in the  
4 collection, care, and administration of the estate, but  
5 court authorization is required for payment of  
6 compensation to any of the following:

7 (A) The guardian or conservator of the person or  
8 estate or both.

9 (B) An attorney for the guardian or conservator of the  
10 person or estate or both.

11 (C) An attorney for the ward or conservatee.

12 (D) An attorney for the estate.

13 (E) The public guardian for the costs and fee under  
14 Section 2902.

15 (b) The payments provided for by paragraph (3) of  
16 subdivision (a) are not required to be made to the extent  
17 the payments would impair the ability to provide the  
18 necessities of life to the conservatee and the spouse and  
19 minor children of the conservatee and to provide the  
20 basic living expenses, as defined in Section 297 of the  
21 Family Code, of the domestic partner of the conservatee.

22 (c) The guardian or conservator may petition the  
23 court under Section 2403 for instructions when there is  
24 doubt whether a debt should be paid under this section.

25 SEC. 28. Section 2504 of the Probate Code is amended  
26 to read:

27 2504. Court approval is required for the compromise  
28 or settlement of any of the following:

29 (a) A claim for the support, maintenance, or education  
30 of (1) the ward or conservatee, or (2) a person whom the  
31 ward or conservatee is legally obligated to support,  
32 maintain, or educate, against any other person  
33 (including, but not limited to, the spouse or parent of the  
34 ward or the spouse, domestic partner, parent, or adult  
35 child of the conservatee).

36 (b) A claim of the ward or conservatee for wrongful  
37 death.

38 (c) A claim of the ward or conservatee for physical or  
39 nonphysical harm to the person.



1 SEC. 29. Section 2572 of the Probate Code is amended  
2 to read:

3 2572. An order authorizing the guardian or  
4 conservator to purchase real property may authorize the  
5 guardian or conservator to join with the spouse of the  
6 ward or the spouse or domestic partner of the  
7 conservatee or with any other person or persons in the  
8 purchase of the real property, or an interest, equity, or  
9 estate therein, in severalty, in common, in community, or  
10 in joint tenancy, for cash or upon a credit or for part cash  
11 and part credit. When the court authorizes the purchase  
12 of real property, the court may order the guardian or  
13 conservator to execute all necessary instruments and  
14 commitments to complete the transaction.

15 SEC. 30. Section 2580 of the Probate Code is amended  
16 to read:

17 2580. (a) The conservator or other interested person  
18 may file a petition under this article for an order of the  
19 court authorizing or requiring the conservator to take a  
20 proposed action for any one or more of the following  
21 purposes:

- 22 (1) Benefiting the conservatee or the estate.
- 23 (2) Minimizing current or prospective taxes or  
24 expenses of administration of the conservatorship estate  
25 or of the estate upon the death of the conservatee.
- 26 (3) Providing gifts for any purposes, and to any  
27 charities, relatives (including the other spouse or  
28 domestic partner), friends, or other objects of bounty, as  
29 would be likely beneficiaries of gifts from the  
30 conservatee.

31 (b) The action proposed in the petition may include,  
32 but is not limited to, the following:

- 33 (1) Making gifts of principal or income, or both, of the  
34 estate, outright or in trust.
- 35 (2) Conveying or releasing the conservatee's  
36 contingent and expectant interests in property, including  
37 marital property rights and any right of survivorship  
38 incident to joint tenancy or tenancy by the entirety.
- 39 (3) Exercising or releasing the conservatee's powers as  
40 donee of a power of appointment.



1 (4) Entering into contracts.

2 (5) Creating for the benefit of the conservatee or  
3 others, revocable or irrevocable trusts of the property of  
4 the estate, which trusts may extend beyond the  
5 conservatee's disability or life. A special needs trust for  
6 money paid pursuant to a compromise or judgment for a  
7 conservatee may be established only under Chapter 4  
8 (commencing with Section 3600) of Part 8, and not under  
9 this article.

10 (6) Transferring to a trust created by the conservator  
11 or conservatee any property unintentionally omitted  
12 from the trust.

13 (7) Exercising options of the conservatee to purchase  
14 or exchange securities or other property.

15 (8) Exercising the rights of the conservatee to elect  
16 benefit or payment options, to terminate, to change  
17 beneficiaries or ownership, to assign rights, to borrow, or  
18 to receive cash value in return for a surrender of rights  
19 under any of the following:

20 (i) Life insurance policies, plans, or benefits.

21 (ii) Annuity policies, plans, or benefits.

22 (iii) Mutual fund and other dividend investment  
23 plans.

24 (iv) Retirement, profit-sharing, and employee welfare  
25 plans and benefits.

26 (9) Exercising the right of the conservatee to elect to  
27 take under or against a will.

28 (10) Exercising the right of the conservatee to disclaim  
29 any interest that may be disclaimed under Part 8  
30 (commencing with Section 260) of Division 2.

31 (11) Exercising the right of the conservatee (i) to  
32 revoke or modify a revocable trust or (ii) to surrender the  
33 right to revoke or modify a revocable trust, but the court  
34 shall not authorize or require the conservator to exercise  
35 the right to revoke or modify a revocable trust if the  
36 instrument governing the trust (i) evidences an intent to  
37 reserve the right of revocation or modification  
38 exclusively to the conservatee, (ii) provides expressly  
39 that a conservator may not revoke or modify the trust, or  
40 (iii) otherwise evidences an intent that would be



1 inconsistent with authorizing or requiring the  
2 conservator to exercise the right to revoke or modify the  
3 trust.

4 (12) Making an election referred to in Section 13502 or  
5 an election and agreement referred to in Section 13503.

6 (13) Making a will.

7 SEC. 31. Section 2614.5 of the Probate Code is  
8 amended to read:

9 2614.5. (a) If the guardian or conservator fails to file  
10 an inventory and appraisal within the time allowed by law  
11 or by court order, upon request of the ward or  
12 conservatee, the spouse of the ward or the spouse or  
13 domestic partner of the conservatee, any relative or  
14 friend of the ward or conservatee, or any interested  
15 person, the court shall order the guardian or conservator  
16 to file the inventory and appraisal within the time  
17 prescribed in the order or to show cause why the guardian  
18 or conservator should not be removed. The person who  
19 requested the order shall serve it upon the guardian or  
20 conservator in the manner provided in Section 415.10 or  
21 415.30 of the Code of Civil Procedure or in a manner as  
22 is ordered by the court.

23 (b) If the guardian or conservator fails to file the  
24 inventory and appraisal as required by the order within  
25 the time prescribed in the order, unless good cause is  
26 shown for not doing so, the court, on its own motion or on  
27 petition, may remove the guardian or conservator,  
28 revoke the letters of guardianship or conservatorship, and  
29 enter judgment accordingly, and order the guardian or  
30 conservator to file an account and to surrender the estate  
31 to the person legally entitled thereto.

32 (c) The procedure provided in this section is optional  
33 and does not preclude the use of any other remedy or  
34 sanction when an inventory and appraisal is not timely  
35 filed.

36 SEC. 32. Section 2622 of the Probate Code is amended  
37 to read:

38 2622. The ward or conservatee, the spouse of the ward  
39 or the spouse or domestic partner of the conservatee, any  
40 relative or friend of the ward or conservatee, or any



1 creditor or other interested person may file written  
2 objections to the account of the guardian or conservator,  
3 stating the items of the account to which objection is  
4 made and the basis for the objection.

5 SEC. 33. Section 2651 of the Probate Code is amended  
6 to read:

7 2651. The ward or conservatee, the spouse of the ward  
8 or the spouse or domestic partner of the conservatee, any  
9 relative or friend of the ward or conservatee, or any  
10 interested person may apply by petition to the court to  
11 have the guardian or conservator removed. The petition  
12 shall state facts showing cause for removal.

13 SEC. 34. Section 2653 of the Probate Code is amended  
14 to read:

15 2653. (a) The guardian or conservator, the ward or  
16 conservatee, the spouse of the ward or the spouse or  
17 domestic partner of the conservatee, any relative or  
18 friend of the ward or conservatee, and any interested  
19 person, may appear at the hearing and support or oppose  
20 the petition.

21 (b) If the court determines that cause for removal of  
22 the guardian or conservator exists, the court may remove  
23 the guardian or conservator, revoke the letters of  
24 guardianship or conservatorship, and enter judgment  
25 accordingly and, in the case of a guardianship or  
26 conservatorship of the estate, order the guardian or  
27 conservator to file an account and to surrender the estate  
28 to the person legally entitled thereto. If the guardian or  
29 conservator fails to file the account as ordered, the court  
30 may compel the account pursuant to Section 2629.

31 SEC. 35. Section 2681 of the Probate Code is amended  
32 to read:

33 2681. A petition for appointment of a successor  
34 conservator may be filed by any of the following:

- 35 (a) The conservatee.
- 36 (b) The spouse or domestic partner of the  
37 conservatee.
- 38 (c) A relative of the conservatee.



1 (d) Any interested state or local entity or agency of  
2 this state or any interested public officer or employee of  
3 this state or of a local public entity of this state.

4 (e) Any other interested person or friend of the  
5 conservatee.

6 SEC. 36. Section 2682 of the Probate Code is amended  
7 to read:

8 2682. (a) The petition shall request that a successor  
9 conservator be appointed for the person or estate, or  
10 both, and shall specify the name and address of the  
11 proposed successor conservator and the name and  
12 address of the conservatee.

13 (b) The petition shall set forth, so far as they are known  
14 to the petitioner, the names and addresses of the spouse  
15 or domestic partner and of the relatives of the  
16 conservatee within the second degree.

17 (c) If the petition is filed by one other than the  
18 conservatee, the petition shall state whether or not the  
19 petitioner is a creditor or debtor of the conservatee.

20 (d) If the conservatee is a patient in or on leave of  
21 absence from a state institution under the jurisdiction of  
22 the State Department of Mental Health or the State  
23 Department of Developmental Services and that fact is  
24 known to the petitioner, the petition shall state that fact  
25 and name the institution.

26 (e) The petition shall state, so far as is known to the  
27 petitioner, whether or not the conservatee is receiving or  
28 is entitled to receive benefits from the Veterans  
29 Administration and the estimated amount of the monthly  
30 benefit payable by the Veterans Administration for the  
31 conservatee.

32 (f) The petition shall state whether or not the  
33 conservatee will be present at the hearing.

34 SEC. 37. Section 2687 of the Probate Code is amended  
35 to read:

36 2687. The conservatee, the spouse, the domestic  
37 partner, or any relative or friend of the conservatee, or  
38 any other interested person may appear at the hearing to  
39 support or oppose the petition.



1 SEC. 38. Section 2700 of the Probate Code is amended  
2 to read:

3 2700. (a) At any time after the issuance of letters of  
4 guardianship or conservatorship, the ward, if over 14  
5 years of age or the conservatee, the spouse of the ward or  
6 the spouse or domestic partner of the conservatee, any  
7 relative or creditor of the ward or conservatee, or any  
8 other interested person, in person or by attorney, may file  
9 with the court clerk a written request for special notice.

10 (b) The request for special notice shall be so entitled  
11 and shall set forth the name of the person and the address  
12 to where notices shall be sent.

13 (c) Special notice may be requested of any one or  
14 more of the following matters:

15 (1) Petitions filed in the guardianship or  
16 conservatorship proceeding.

17 (2) Inventories and appraisals of property in the  
18 estate, including any supplemental inventories and  
19 appraisals.

20 (3) Accounts of the guardian or conservator.

21 (4) Proceedings for the final termination of the  
22 guardianship or conservatorship proceeding.

23 (d) Special notice may be requested of:

24 (1) Any one or more of the matters in subdivision (c)  
25 by describing the matter or matters.

26 (2) All the matters in subdivision (c) by referring  
27 generally to “the matters described in subdivision (c) of  
28 Section 2700 of the Probate Code” or by using words of  
29 similar meaning.

30 (e) A copy of the request shall be personally delivered  
31 or mailed to the guardian or conservator or to the  
32 attorney for the guardian or conservator. If personally  
33 delivered, the request is effective when it is delivered. If  
34 mailed, the request is effective when it is received.

35 (f) When the original of the request is filed with the  
36 court clerk, it shall be accompanied by a written  
37 admission or proof of service.

38 SEC. 39. Section 2803 of the Probate Code is amended  
39 to read:

40 2803. The petition shall set forth all of the following:



- 1 (a) The name and address of:
  - 2 (1) The foreign guardian or conservator, who may but
  - 3 need not be the guardian or conservator appointed in this
  - 4 state.
  - 5 (2) The ward or conservatee.
  - 6 (3) The guardian or conservator, so far as is known to
  - 7 the petitioner.
- 8 (b) The names, ages, and addresses, so far as they are
- 9 known to the petitioner, of the spouse of the ward or the
- 10 spouse or domestic partner of the conservatee and of
- 11 relatives of the ward or conservatee within the second
- 12 degree.
- 13 (c) A brief description of the character, condition,
- 14 value, and location of the personal property sought to be
- 15 transferred.
- 16 (d) A statement whether the foreign guardian or
- 17 conservator has agreed to accept the transfer of the
- 18 property. If the foreign guardian or conservator has so
- 19 agreed, the acceptance shall be attached as an exhibit to
- 20 the petition or otherwise filed with the court.
- 21 (e) A statement of the manner in which and by whom
- 22 the foreign guardian or conservator was appointed.
- 23 (f) A general statement of the qualifications of the
- 24 foreign guardian or conservator.
- 25 (g) The amount of bond, if any, of the foreign guardian
- 26 or conservator.
- 27 (h) A general statement of the nature and value of the
- 28 property of the ward or conservatee already under the
- 29 management or control of the foreign guardian or
- 30 conservator.
- 31 (i) The name of the court having jurisdiction of such
- 32 foreign guardian or conservator or of the accounts of such
- 33 foreign guardian or conservator or, if none, the court in
- 34 which a proceeding may be had with respect to the
- 35 guardianship or conservatorship if the property is
- 36 transferred.
- 37 (j) Whether there is any pending civil action in this
- 38 state against the guardian or conservator, the ward or
- 39 conservatee, or the estate.
- 40 (k) A statement of the reasons for the transfer.



1 SEC. 40. Section 2805 of the Probate Code is amended  
2 to read:

3 2805. Any of the following may appear and file  
4 written objections to the petition:

5 (a) Any person required to be listed in the petition.

6 (b) Any creditor of the ward or conservatee or of the  
7 estate.

8 (c) The spouse of the ward or the spouse or domestic  
9 partner of the conservatee, or any relative or friend of the  
10 ward or conservatee.

11 (d) Any other interested person.

12 SEC. 41. Section 6240 of the Probate Code is amended  
13 to read:

14 6240. The following is the California Statutory Will  
15 form:

16  
17 QUESTIONS AND ANSWERS ABOUT THIS  
18 CALIFORNIA STATUTORY WILL  
19

20 The following information, in question and answer  
21 form, is not a part of the California Statutory Will. It is  
22 designed to help you understand about Wills and to  
23 decide if this Will meets your needs. This Will is in a  
24 simple form. The complete text of each paragraph of this  
25 Will is printed at the end of the Will.

26  
27 1. *What happens if I die without a Will?* If you die  
28 without a Will, what you own (your “assets”) in your  
29 name alone will be divided among your spouse, children,  
30 or other relatives according to state law. The court will  
31 appoint a relative to collect and distribute your assets. A  
32 domestic partner will not have a right to inherit your  
33 property without a Will.

34 2. *What can a Will do for me?* In a Will you may  
35 designate who will receive your assets at your death. You  
36 may designate someone (called an “executor”) to appear  
37 before the court, collect your assets, pay your debts and  
38 taxes, and distribute your assets as you specify. You may  
39 nominate someone (called a “guardian”) to raise your  
40 children who are under age 18. You may designate



1 someone (called a “custodian”) to manage assets for your  
2 children until they reach any age between 18 and 25.

3 3. *Does a Will avoid probate?* No. With or without a  
4 Will, assets in your name alone usually go through the  
5 court probate process. The court’s first job is to determine  
6 if your Will is valid.

7 4. *What is community property?* Can I give away my  
8 share in my Will? If you are married and you or your  
9 spouse earned money during your marriage from work  
10 and wages, that money (and the assets bought with it) is  
11 community property. Your Will can only give away your  
12 one-half of community property. Your Will cannot give  
13 away your spouse’s one-half of community property.

14 5. *Does my Will give away all of my assets?* Do all  
15 assets go through probate? No. Money in a joint tenancy  
16 bank account automatically belongs to the other named  
17 owner without probate. If your spouse, domestic partner,  
18 or child is on the deed to your house as a joint tenant, the  
19 house automatically passes to him or her. Life insurance  
20 and retirement plan benefits may pass directly to the  
21 named beneficiary. A Will does not necessarily control  
22 how these types of “nonprobate” assets pass at your death.

23 6. *Are there different kinds of Wills?* Yes. There are  
24 handwritten Wills, typewritten Wills, attorney-prepared  
25 Wills, and statutory Wills. All are valid if done precisely  
26 as the law requires. You should see a lawyer if you do not  
27 want to use this statutory Will or if you do not understand  
28 this form.

29 7. *Who may use this Will?* This Will is based on  
30 California law. It is designed only for California residents.  
31 You may use this form if you are single, married, a  
32 member of a domestic partnership, or divorced. You must  
33 be age 18 or older and of sound mind.

34 8. *Are there any reasons why I should NOT use this*  
35 *statutory Will?* Yes. This is a simple Will. It is not designed  
36 to reduce death taxes or other taxes. Talk to a lawyer to  
37 do tax planning, especially if (i) your assets will be worth  
38 more than \$600,000 or the current amount excluded from  
39 estate tax under federal law at your death, (ii) you own  
40 business-related assets, (iii) you want to create a trust



1 fund for your children’s education or other purposes, (iv)  
2 you own assets in some other state, (v) you want to  
3 disinherit your spouse or descendants, or (vi) you have  
4 valuable interests in pension or profit-sharing plans. You  
5 should talk to a lawyer who knows about estate planning  
6 if this Will does not meet your needs. This Will treats most  
7 adopted children like natural children. You should talk to  
8 a lawyer if you have stepchildren or foster children whom  
9 you have not adopted.

10 9. *May I add or cross out any words on this Will?* No.  
11 If you do, the Will may be invalid or the court may ignore  
12 the crossed out or added words. You may only fill in the  
13 blanks. You may amend this Will by a separate document  
14 (called a codicil). Talk to a lawyer if you want to do  
15 something with your assets which is not allowed in this  
16 form.

17 10. *May I change my Will?* Yes. A Will is not effective  
18 until you die. You may make and sign a new Will. You may  
19 change your Will at any time, but only by an amendment  
20 (called a codicil). You can give away or sell your assets  
21 before your death. Your Will only acts on what you own  
22 at death.

23 11. *Where should I keep my Will?* After you and the  
24 witnesses sign the Will, keep your Will in your safe deposit  
25 box or other safe place. You should tell trusted family  
26 members where your Will is kept.

27 12. *When should I change my Will?* You should make  
28 and sign a new Will if you marry or divorce after you sign  
29 this Will. Divorce or annulment automatically cancels all  
30 property stated to pass to a former husband or wife under  
31 this Will, and revokes the designation of a former spouse  
32 as executor, custodian, or guardian. You should sign a new  
33 Will when you have more children, or if your spouse or a  
34 child dies, or a domestic partner dies or marries. You may  
35 want to change your Will if there is a large change in the  
36 value of your assets. You may also want to change your  
37 Will if you enter a domestic partnership or your domestic  
38 partnership has been terminated after you sign this Will.



1 13. *What can I do if I do not understand something in*  
2 *this Will?* If there is anything in this Will you do not  
3 understand, ask a lawyer to explain it to you.

4 14. *What is an executor?* An “executor” is the person  
5 you name to collect your assets, pay your debts and taxes,  
6 and distribute your assets as the court directs. It may be  
7 a person or it may be a qualified bank or trust company.

8 15. *Should I require a bond?* You may require that an  
9 executor post a “bond.” A bond is a form of insurance to  
10 replace assets that may be mismanaged or stolen by the  
11 executor. The cost of the bond is paid from the estate’s  
12 assets.

13 16. *What is a guardian?* Do I need to designate one? If  
14 you have children under age 18, you should designate a  
15 guardian of their “persons” to raise them.

16 17. *What is a custodian?* Do I need to designate one?  
17 A “custodian” is a person you may designate to manage  
18 assets for someone (including a child) who is between  
19 ages 18 and 25 and who receives assets under your Will.  
20 The custodian manages the assets and pays as much as the  
21 custodian determines is proper for health, support,  
22 maintenance, and education. The custodian delivers  
23 what is left to the person when the person reaches the age  
24 you choose (between 18 and 25). No bond is required of  
25 a custodian.

26 18. *Should I ask people if they are willing to serve*  
27 *before I designate them as executor, guardian, or*  
28 *custodian?* Probably yes. Some people and banks and  
29 trust companies may not consent to serve or may not be  
30 qualified to act.

31 19. *What happens if I make a gift in this Will to*  
32 *someone and they die before I do?* A person must survive  
33 you by 120 hours to take a gift under this Will. If they do  
34 not, then the gift fails and goes with the rest of your assets.  
35 If the person who does not survive you is a relative of you  
36 or your spouse, then certain assets may go to the relative’s  
37 descendants.

38 20. *What is a trust?* There are many kinds of trusts,  
39 including trusts created by Wills (called “testamentary  
40 trusts”) and trusts created during your lifetime (called



1 “revocable living trusts”). Both kinds of trusts are  
2 long-term arrangements where a manager (called a  
3 “trustee”) invests and manages assets for someone  
4 (called a “beneficiary”) on the terms you specify. Trusts  
5 are too complicated to be used in this statutory Will. You  
6 should see a lawyer if you want to create a trust.

7 21. *What is a domestic partner?* You have a domestic  
8 partner if you have met certain legal requirements and  
9 filed a form entitled “Declaration of Domestic  
10 Partnership” with the Secretary of State.  
11 Notwithstanding Section 299.6 of the Family Code, if you  
12 have not filed a Declaration of Domestic Partnership with  
13 the Secretary of State, you do not meet the required  
14 definition and should not use the section of the Statutory  
15 Will form that refers to domestic partners even if you  
16 have registered your domestic partnership with another  
17 governmental entity. If you are unsure if you have a  
18 domestic partner or if your domestic partnership meets  
19 the required definition, please contact the Secretary of  
20 State’s office.

21  
22 INSTRUCTIONS  
23

24 1. *READ THE WILL.* Read the whole Will first. If you  
25 do not understand something, ask a lawyer to explain it  
26 to you.

27 2. *FILL IN THE BLANKS.* Fill in the blanks. Follow the  
28 instructions in the form carefully. Do not add any words  
29 to the Will (except for filling in blanks) or cross out any  
30 words.

31 3. *DATE AND SIGN THE WILL AND HAVE TWO*  
32 *WITNESSES SIGN IT.* Date and sign the Will and have  
33 two witnesses sign it. You and the witnesses should read  
34 and follow the Notice to Witnesses found at the end of this  
35 Will.

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NOTE TO PRINTING OFFICE: INSERT  
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for California Statutory Will

as printed on pages 17 to 22 of Chapter 1055, 1991  
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1 SEC. 42. Notwithstanding Section 17610 of the  
2 Government Code, if the Commission on State Mandates  
3 determines that this act contains costs mandated by the  
4 state, reimbursement to local agencies and school  
5 districts for those costs shall be made pursuant to Part 7  
6 (commencing with Section 17500) of Division 4 of Title  
7 2 of the Government Code. If the statewide cost of the  
8 claim for reimbursement does not exceed one million  
9 dollars (\$1,000,000), reimbursement shall be made from  
10 the State Mandates Claims Fund.

O

