

**Introduced by Senator Murray**December 7, 1998

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An act to add Division 2.5 (commencing with Section 297) to the Family Code, to add Section 1261 to 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 human relationships.

## LEGISLATIVE COUNSEL'S DIGEST

SB 75, as introduced, Murray. Domestic partnership: registration, termination, and rights thereof.

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

This bill would enact the Domestic Partnership Act of 1999, which would define "domestic partners" and provide for the registration of domestic partnerships with the Secretary of State. The bill would also specify procedures for the termination of domestic partnerships. The bill would prohibit a person who has filed a Declaration of Domestic Partnership from filing a new declaration until at least 6 months has elapsed from the date that a Notice of Termination of Domestic Partnership was filed with the Secretary of State in connection with the termination of the most recent domestic partnership, except where the previous domestic partnership ended because one of the partners died.



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

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

This bill would also preempt, on and after January 1, 2000, any local ordinance or law that provides for the creation of a domestic partnership, as specified, except that a local jurisdiction may retain or adopt policies or laws that offer rights to domestic partners within that jurisdiction that are in addition to the rights established by state law, as specified.

(2) Existing law does not specify requirements concerning patient visitation in all health facilities.

This bill would require a health facility to allow a patient's domestic partner and other specified persons to visit a patient, except under specified conditions.

(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 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 which 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 this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

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

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

3

4 DIVISION 2.5. THE DOMESTIC PARTNERSHIP  
5 ACT OF 1999

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7 PART 1. DEFINITIONS

8

9 297. This division shall be known and may be cited as  
10 the Domestic Partnership Act of 1999.

11 297.5. (a) Domestic partners are two adults who  
12 have chosen to share one another's lives in an intimate  
13 and committed relationship of mutual caring.



1 (b) A domestic partnership shall be established when  
2 all of the following requirements are met:

3 (1) Both persons have a common residence.

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

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

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

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

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

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

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

26 (e) “Joint responsibility” means that each partner  
27 agrees to provide for the other partner’s basic living  
28 expenses if the partner is unable to provide for herself or  
29 himself. Anyone to whom these expenses are owed can  
30 enforce this responsibility.

31

32 PART 2. REGISTRATION

33

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



1 (b) (1) The Secretary of State shall distribute these  
2 forms to each county clerk. These forms shall be available  
3 to the public at the office of the Secretary of State and  
4 each county clerk.

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

9 (c) The Declaration of Domestic Partnership shall  
10 require each person who wants to become a domestic  
11 partner to (1) state that he or she meets the requirements  
12 of Section 297.5 at the time the form is signed, (2) provide  
13 a mailing address, (3) sign the form under penalty of  
14 perjury, and (4) have a notary public notarize his or her  
15 signature.

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

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

28

29

### PART 3. TERMINATION

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31 299. (a) A domestic partnership is terminated when  
32 any one of the following occurs:

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

36 (2) One of the domestic partners dies.

37 (3) One of the domestic partners marries.

38 (4) The domestic partners no longer have a common  
39 residence.



1 (b) Upon termination of a domestic partnership, at  
2 least one former partner shall file a Notice of Termination  
3 of Domestic Partnership with the Secretary of State. The  
4 partner who files the Notice of Termination of Domestic  
5 Partnership shall send a copy of the notice to the last  
6 known address of the other partner.

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

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

23

#### 24 PART 4. LEGAL EFFECT

25

26 299.5. (a) The obligations that two people have to  
27 each other as a result of creating a domestic partnership  
28 are those described in Section 297.5. Registration as a  
29 domestic partner under this division shall not be evidence  
30 of, or establish, any rights existing under law other than  
31 those expressly provided to domestic partners in this  
32 division, Section 1261 of the Health and Safety Code, or  
33 the Probate Code relating to bequests, conservatorships,  
34 health facility visitation rights, and support for basic  
35 living expenses.

36 The provisions relating to domestic partners provided  
37 in this division, Section 1261 of the Health and Safety  
38 Code, and the Probate Code shall not diminish any right  
39 under any other provision of law.



1 (b) Upon the termination of a domestic partnership,  
2 the partners, from that time forward, shall incur none of  
3 the obligations to each other as domestic partners that are  
4 created by this division, Section 1261 of the Health and  
5 Safety Code, or the Probate Code relating to domestic  
6 partners.

7 (c) Any domestic partnership entered into outside of  
8 this state, which would be valid by the laws of the  
9 jurisdiction under which the partnership was created,  
10 shall be valid in this state.

11  
12 PART 5. PREEMPTION  
13

14 299.6. (a) Any local ordinance or law that provides  
15 for the creation of a “domestic partnership” shall be  
16 preempted on and after January 1, 2000, except as  
17 provided in subdivision (c).

18 (b) Domestic partnerships created under any local  
19 domestic partnership ordinance or law before January 1,  
20 2000, shall remain valid. On and after January 1, 2000,  
21 domestic partnerships previously established under a  
22 local ordinance or law shall be governed by this division  
23 and the rights and duties of the partners shall be those set  
24 out in this division, except as provided in subdivision (c).

25 (c) Any local jurisdiction may retain or adopt  
26 ordinances, policies, or laws that offer rights within that  
27 jurisdiction to domestic partners that are in addition to  
28 the rights set out in this division, and the local rights may  
29 be conditioned upon the agreement of the domestic  
30 partners to assume the additional obligations.

31 SEC. 2. Section 1261 is added to the Health and Safety  
32 Code, to read:

33 1261. (a) A health facility shall allow a patient’s  
34 domestic partner, the children of the patient’s domestic  
35 partner, and the domestic partner of the patient’s parent  
36 or child to visit, unless one of the following is met:

- 37 (1) No visitors are allowed.
- 38 (2) The facility reasonably determines that the  
39 presence of a particular visitor would endanger the  
40 health or safety of a patient, member of the health facility



1 staff, or other visitor to the health facility, or would  
2 significantly disrupt the operations of a facility.

3 (3) The patient has indicated to health facility staff  
4 that the patient does not want this person to visit.

5 (b) This section may not be construed to prohibit a  
6 health facility from otherwise establishing reasonable  
7 restrictions upon visitation, including restrictions upon  
8 the hours of visitation and number of visitors.

9 (c) As used in this section, “domestic partner” has the  
10 meaning provided in Section 37 of the Probate Code.

11 SEC. 3. Section 37 is added to the Probate Code, to  
12 read:

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

19 SEC. 4. Section 1460 of the Probate Code is amended  
20 to read:

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

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

31 (1) The guardian or conservator.

32 (2) The ward or the conservatee.

33 (3) The spouse of the ward or conservatee, if the ward  
34 or conservatee has a spouse, *or the domestic partner of*  
35 *the conservatee, if the conservatee has a domestic*  
36 *partner.*

37 (4) Any person who has requested special notice of the  
38 matter, as provided in Section 2700.

39 (5) For any hearing on a petition to terminate a  
40 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. 5. 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—~~such~~ *that* nomination remains effective  
29 notwithstanding the subsequent legal incapacity or death  
30 of the spouse, *domestic partner*, or parent, except that a  
31 nomination by the spouse becomes void upon dissolution  
32 or an adjudication of nullity of their marriage *and a*  
33 *nomination by a domestic partner becomes void upon*  
34 *termination of the domestic partnership.*

35 SEC. 6. 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 ~~such~~ *that* class.

25 SEC. 7. 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. 8. 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 ~~he~~ *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. 9. 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. 10. 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. 11. 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 ~~interested~~  
23 ~~person~~ ~~or~~ relative or friend of the conservatee *or other*  
24 *interested person*.

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

27 SEC. 12. Section 1863 of the Probate Code is amended  
28 to read:

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

36 (b) If the court determines that the conservatorship is  
37 no longer required or that grounds for establishment of  
38 a conservatorship of the person or estate, or both, no  
39 longer exist, the court shall make ~~such a~~ *this* finding and



1 shall enter judgment terminating the conservatorship  
2 accordingly.

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

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

11 SEC. 13. Section 1871 of the Probate Code is amended  
12 to read:

13 1871. Nothing in this article shall be construed to deny  
14 a conservatee any of the following:

15 (a) The right to control an allowance provided under  
16 Section 2421.

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

19 (c) The right to make a will.

20 (d) The right to enter into transactions to the extent  
21 reasonable to provide the necessities of life to the  
22 conservatee and the spouse and minor children *of the*  
23 *conservatee and to provide the basic living expenses, as*  
24 *defined in Section 297.5 of the Family Code, to the*  
25 *domestic partner* of the conservatee.

26 SEC. 14. Section 1873 of the Probate Code is amended  
27 to read:

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





1 (b) In an order made under this section, the court may  
2 include ~~such~~ limitations or conditions on the exercise of  
3 the authority granted to the conservatee as the court  
4 determines to be appropriate including, but not limited  
5 to, the following:

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

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

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

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

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

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

23 (3) The time the conservatorship of the estate is  
24 terminated.

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

33 SEC. 15. Section 1874 of the Probate Code is amended  
34 to read:

35 1874. (a) After a conservator has been appointed, a  
36 petition requesting an order under Section 1873 may be  
37 filed by any of the following:

38 (1) The conservator.

39 (2) The conservatee.



1 (3) The spouse, *domestic partner*, or any relative or  
2 friend of the conservatee.

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

6 SEC. 16. Section 1891 of the Probate Code is amended  
7 to read:

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

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

14 (1) The conservator.

15 (2) The conservatee.

16 (3) The spouse, *domestic partner*, or any relative or  
17 friend of the conservatee.

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

22 SEC. 17. Section 1895 of the Probate Code is amended  
23 to read:

24 1895. (a) The conservatee, the spouse—~~or~~ *the*  
25 *domestic partner*, any relative, or *any* friend of the  
26 conservatee, the conservator, or any other interested  
27 person may appear at the hearing to support or oppose  
28 the petition.

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

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

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

38 (3) The conservatee has the right to oppose the  
39 petition, to be represented by legal counsel if the



1 conservatee so chooses, and to have legal counsel  
2 appointed by the court if unable to retain legal counsel.

3 (c) After the court informs the conservatee of the  
4 matters listed in subdivision (b) and prior to granting the  
5 petition, the court shall consult the conservatee to  
6 determine the conservatee’s opinion concerning the  
7 order requested in the petition.

8 SEC. 18. Section 2212 of the Probate Code is amended  
9 to read:

10 2212. The petition for transfer may be filed only by  
11 one or more of the following:

- 12 (a) The guardian or conservator.
- 13 (b) The ward or conservatee.
- 14 (c) The spouse of the ward or *the spouse or domestic*  
15 *partner of the* conservatee.
- 16 (d) A relative or friend of the ward or conservatee.
- 17 (e) Any other interested person.

18 SEC. 19. Section 2213 of the Probate Code is amended  
19 to read:

20 2213. The petition for transfer shall set forth all of the  
21 following:

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

35 SEC. 20. Section 2357 of the Probate Code is amended  
36 to read:

- 37 2357. (a) As used in this section:  
38 (1) “Guardian or conservator” includes a temporary  
39 guardian of the person or a temporary conservator of the  
40 person.



1 (2) “Ward or conservatee” includes a person for whom  
2 a temporary guardian of the person or temporary  
3 conservator of the person has been appointed.

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

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

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

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

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

25 (4) The predictable or probable outcome of the  
26 recommended course of treatment.

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

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

31 (d) Upon the filing of the petition, the court shall  
32 notify the attorney of record for the ward or conservatee,  
33 if any, or shall appoint the public defender or private  
34 counsel under Section 1471, to consult with and represent  
35 the ward or conservatee at the hearing on the petition  
36 and, if that appointment is made, Section 1472 applies.

37 (e) The hearing on the petition may be held pursuant  
38 to an order of the court prescribing the notice to be given  
39 of the hearing. The order shall specify the period of notice  
40 of the hearing and the period so fixed shall take into



1 account (1) the existing medical facts and circumstances  
2 set forth in the petition or in a medical affidavit attached  
3 to the petition or in a medical affidavit presented to the  
4 court and (2) the desirability, where the condition of the  
5 ward or conservatee permits, of giving adequate notice  
6 to all interested persons.

7 (f) A copy of the notice of hearing or of the order  
8 prescribing notice of hearing, and a copy of the petition,  
9 shall be personally served or mailed, as prescribed in the  
10 order, on all of the following:

11 (1) The ward or conservatee.

12 (2) The attorney of record for the ward or  
13 conservatee, if any, or the attorney appointed by the  
14 court to represent the ward or conservatee at the hearing.

15 (3) Such other persons, if any, as the court in its  
16 discretion may require in the order, which may include  
17 the spouse of the ward, *the spouse or domestic partner of*  
18 *the* conservatee, and any known relatives of the ward or  
19 conservatee within the second degree.

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

27 (h) The court may make an order authorizing the  
28 recommended course of medical treatment of the ward  
29 or conservatee and authorizing the guardian or  
30 conservator to consent on behalf of the ward or  
31 conservatee to the recommended course of medical  
32 treatment for the ward or conservatee if the court  
33 determines from the evidence all of the following:

34 (1) The existing or continuing medical condition of  
35 the ward or conservatee requires the recommended  
36 course of medical treatment.

37 (2) If untreated, there is a probability that the  
38 condition will become life-endangering or result in a  
39 serious threat to the physical or mental health of the ward  
40 or conservatee.



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

4 (i) Upon petition of the ward or conservatee or other  
5 interested person, the court may order that the guardian  
6 or conservator obtain or consent to, or obtain and consent  
7 to, specified medical treatment to be performed upon the  
8 ward or conservatee. Notice of the hearing on the petition  
9 under this subdivision shall be given for the period and in  
10 the manner provided in Chapter 3 (commencing with  
11 Section 1460) of Part 1.

12 SEC. 21. Section 2423 of the Probate Code is amended  
13 to read:

14 2423. (a) Upon petition of the conservator, the  
15 conservatee, the spouse *or domestic partner* of the  
16 conservatee, or a relative within the second degree of the  
17 conservatee, the court may by order authorize or direct  
18 the conservator to pay and distribute surplus income of  
19 the estate or any part of—~~such~~ *the* surplus income (not  
20 used for the support, maintenance, and education of the  
21 conservatee and of those legally entitled to support,  
22 maintenance, or education from the conservatee) to the  
23 spouse *or domestic partner* of the conservatee and to—~~such~~  
24 relatives within the second degree of the conservatee  
25 whom the conservatee would, in the judgment of the  
26 court, have aided but for the existence of the  
27 conservatorship. The court in ordering payments under  
28 this section may impose conditions if the court  
29 determines that the conservatee would have imposed  
30 ~~such~~ *the* conditions if the conservatee had the capacity to  
31 act.

32 (b) The granting of the order and the amounts and  
33 proportions of the payments are discretionary with the  
34 court, but the court shall consider all of the following:

35 (1) The amount of surplus income available after  
36 adequate provision has been made for the comfortable  
37 and suitable support, maintenance, and education of the  
38 conservatee and of those legally entitled to support,  
39 maintenance, or education from the conservatee.



1 (2) The circumstances and condition of life to which  
2 the conservatee and the spouse *or domestic partner* and  
3 ~~such~~ relatives have been accustomed.

4 (3) The amount—~~which~~ *that* the conservatee would in  
5 the judgment of the court have allowed the spouse *or*  
6 *domestic partner* and—~~such~~ relatives but for the existence  
7 of the conservatorship.

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

11 SEC. 22. Section 2430 of the Probate Code is amended  
12 to read:

13 2430. (a) Subject to subdivisions (b) and (c), the  
14 guardian or conservator shall pay the following from any  
15 principal and income of the estate:

16 (1) The debts incurred by the ward or conservatee  
17 before creation of the guardianship or conservatorship,  
18 giving priority to the debts described in Section 2431 to  
19 the extent required by that section.

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

32 (3) In the case of a conservatorship, any other debt  
33 incurred by the conservatee during the conservatorship  
34 only if the debt satisfies the requirements of any order  
35 made under Chapter 4 (commencing with Section 1870)  
36 of Part 3.

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



1     ~~(i)~~  
2     (A) The guardian or conservator of the person or  
3     estate or both.  
4     ~~(ii)~~  
5     (B) An attorney for the guardian or conservator of the  
6     person or estate or both.  
7     ~~(iii)~~  
8     (C) An attorney for the ward or conservatee.  
9     ~~(iv)~~  
10    (D) An attorney for the estate.  
11    ~~(v)~~  
12    (E) The public guardian for the costs and fee under  
13    Section 2902.  
14    (b) The payments provided for by paragraph (3) of  
15    subdivision (a) are not required to be made to the extent  
16    ~~such~~ *the* payments would impair the ability to provide *the*  
17    necessaries of life to the conservatee and the spouse and  
18    minor children *of the conservatee and to provide the*  
19    *basic living expenses, as defined in Section 297 of the*  
20    *Family Code, of the domestic partner* of the conservatee.  
21    (c) The guardian or conservator may petition the  
22    court under Section 2403 for instructions when there is  
23    doubt whether a debt should be paid under this section.  
24    SEC. 23. Section 2504 of the Probate Code is amended  
25    to read:  
26    2504. Court approval is required for the compromise  
27    or settlement of any of the following:  
28    (a) A claim for the support, maintenance, or education  
29    of (1) the ward or conservatee, or (2) a person whom the  
30    ward or conservatee is legally obligated to support,  
31    maintain, or educate, against any other person  
32    (including, but not limited to, the spouse or parent of the  
33    ward or the spouse, *domestic partner*, parent, or adult  
34    child of the conservatee).  
35    (b) A claim of the ward or conservatee for wrongful  
36    death.  
37    (c) A claim of the ward or conservatee for physical or  
38    nonphysical harm to the person.  
39    SEC. 24. Section 2572 of the Probate Code is amended  
40    to read:





1 2572. An order authorizing the guardian or  
2 conservator to purchase real property may authorize the  
3 guardian or conservator to join with the spouse of the  
4 ward or *the spouse or domestic partner of the*  
5 conservatee or with any other person or persons in the  
6 purchase of the real property, or an interest, equity, or  
7 estate therein, in severalty, in common, in community, or  
8 in joint tenancy, for cash or upon a credit or for part cash  
9 and part credit. When the court authorizes the purchase  
10 of real property, the court may order the guardian or  
11 conservator to execute all necessary instruments and  
12 commitments to complete the transaction.

13 SEC. 25. Section 2580 of the Probate Code is amended  
14 to read:

15 2580. (a) The conservator or other interested person  
16 may file a petition under this article for an order of the  
17 court authorizing or requiring the conservator to take a  
18 proposed action for any one or more of the following  
19 purposes:

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

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

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



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

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

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

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

19 ~~(i)~~

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

21 ~~(ii)~~

22 (B) Annuity policies, plans, or benefits.

23 ~~(iii)~~

24 (C) Mutual fund and other dividend investment plans.

25 ~~(iv)~~

26 (D) Retirement, profit sharing, and employee welfare  
27 plans and benefits.

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

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

33 (11) Exercising the right of the conservatee—~~(i)~~ (A) to  
34 revoke a revocable trust or—~~(ii)~~ (B) to surrender the right  
35 to revoke a revocable trust, but the court shall not  
36 authorize or require the conservator to exercise the right  
37 to revoke a revocable trust if the instrument governing  
38 the trust (i) evidences an intent to reserve the right of  
39 revocation exclusively to the conservatee, (ii) provides  
40 expressly that a conservator may not revoke the trust, or



1 (iii) otherwise evidences an intent that would be  
2 inconsistent with authorizing or requiring the  
3 conservator to exercise the right to revoke the 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. 26. 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 ~~such the time as~~  
17 *prescribed in the order* ~~prescribes~~ or to show cause why  
18 the guardian or conservator should not be removed. The  
19 person who requested the order shall serve it upon the  
20 guardian or conservator in the manner provided in  
21 Section 415.10 or 415.30 of the Code of Civil Procedure or  
22 in ~~such a~~ manner as 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. 27. 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. 28. 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. 29. 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. 30. 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. 31. 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. 32. 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. 33. 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 ~~which~~ *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. 34. 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. 35. 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. 36. Section 6240 of the Probate Code is amended  
13 to read:

14 6240. The following is the California ~~statutory will~~  
15 *Statutory Will* 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—~~belong~~ *belongs* to the other  
17 named owner without probate. If your spouse, *domestic*  
18 *partner*, or child is on the deed to your house as a joint  
19 tenant, the house automatically passes to him or her. Life  
20 insurance and retirement plan benefits may pass directly  
21 to the named beneficiary. A Will does not necessarily  
22 control how these types of “nonprobate” assets pass at  
23 your death.

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

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

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



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

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

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

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

28 12. *When should I change my Will?* You should make  
29 and sign a new Will if you marry or divorce after you sign  
30 this Will. Divorce or annulment automatically cancels all  
31 property stated to pass to a former husband or wife under  
32 this Will, and revokes the designation of a former spouse  
33 as executor, custodian, or guardian. You should sign a new  
34 Will when you have more children, or if your spouse,  
35 *domestic partner*, or a child dies. You may want to change  
36 your Will if there is a large change in the value of your  
37 assets. *You may also want to change your Will if you enter*  
38 *a domestic partnership or your domestic partnership has*  
39 *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 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. If you have not*  
11 *filed a Declaration of Domestic Partnership with the*  
12 *Secretary of State, you do not meet the required*  
13 *definition and should not use the section of the statutory*  
14 *Will form that refers to domestic partners. If you are*  
15 *unsure if you have a domestic partner or if your domestic*  
16 *partnership meets the required definition, please contact*  
17 *the Secretary of State’s office.*

18

19

## INSTRUCTIONS

20

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

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

28 3. *DATE AND SIGN THE WILL AND HAVE TWO*  
29 *WITNESSES SIGN IT.* Date and sign the Will and have  
30 two witnesses sign it. You and the witnesses should read  
31 and follow the Notice to Witnesses found at the end of this  
32 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. 37. 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.

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

