

AMENDED IN ASSEMBLY MAY 31, 2000
AMENDED IN ASSEMBLY MARCH 23, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2047

**Introduced by Assembly Member ~~Steinberg~~ Members
Romero, Kuehl, Migden, and Steinberg
(Coauthor: Assembly Member Hertzberg)
(Coauthors: Assembly Members Aroner, Firebaugh, Keeley,
Kuehl, Mazzoni, and Romero)
(Coauthors: Senators Speier and Vaseconcellos)**

February 18, 2000

An act to amend Section 299.5 of the Family Code, and to amend Sections 27491.4 and 27520 of the Government Code, to amend Sections 7100 and 7113 of, and to add Section 1261.1 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, 6240, 6401, 6402, 8461, 8462, 8463, and 8465 of, and to add Section 37 to, the Probate Code, relating to ~~intestate succession~~ domestic partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 2047, as amended, ~~Steinberg~~ Romero. Intestate succession: domestic partners Domestic partnerships.
Under

(1) Existing law provides for the registration of domestic partnerships, as defined, and limits the legal effect of the registration of the domestic partnership to specified provisions of law.

This bill would expand the legal effect of the registration of a domestic partnership to any provision of law specifically referring to domestic partners.

(2) Existing law establishes 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. The bill would impose a state-mandated local program by expanding the duties of county coroners.

(3) Existing law sets forth procedures for the establishment of a domestic partnership between 2 adults of the same sex, and specifies the rights of a domestic partner with respect to visiting a domestic partner in a health facility.

This bill would authorize a domestic partner to make medical treatment decisions on behalf of a patient in certain circumstances. A violation of those provisions would be a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

(4) 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.

(5) 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.

(6) Under the existing law of intestate succession, the surviving spouse is entitled to a specified share of the decedent’s separate property that is not effectively disposed of by will. Existing law also provides that the surviving spouse is entitled to be appointed administrator of the decedent’s estate and shall be given priority over other persons in relation to the decedent, as specified.

This bill would extend these entitlements to a decedent’s domestic partner, as defined.

(7) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

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

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

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

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

1 SECTION 1. Section 299.5 of the Family Code is
2 amended to read:
3 299.5. (a) The obligations that two people have to
4 each other as a result of creating a domestic partnership
5 are those described in Section 297. Registration as a



1 domestic partner under this division shall not be evidence
2 of, or establish, any rights existing under law other than
3 those expressly provided to domestic partners in this
4 ~~division, Section 1261 of the Health and Safety Code, and~~
5 ~~Section 6401 of the Probate Code.~~ *division and any*
6 *provision of law specifically referring to domestic*
7 *partners.*

8 The provisions relating to domestic partners provided
9 ~~in this division, Section 1261 of the Health and Safety~~
10 ~~Code, and Section 6401 of the Probate Code shall not in~~
11 *this division and any provision of law specifically*
12 *referring to domestic partners.* diminish any right under
13 any other provision of law.

14 (b) Upon the termination of a domestic partnership,
15 the partners, from that time forward, shall incur none of
16 the obligations to each other as domestic partners that are
17 created by this division and Section 1261 of the Health and
18 Safety Code.

19 (c) The filing of a Declaration of Domestic
20 Partnership pursuant to this division shall not change the
21 character of property, real or personal, or any interest in
22 any real or personal property owned by either domestic
23 partner or both of them prior to the date of filing of the
24 declaration.

25 (d) The filing of a Declaration of Domestic
26 Partnership pursuant to this division shall not, in and of
27 itself, create any interest in, or rights to, any property,
28 real or personal, owned by one partner in the other
29 partner, including, but not limited to, rights similar to
30 community property or quasi-community property.

31 (e) Any property or interest acquired by the partners
32 during the domestic partnership where title is shared
33 shall be held by the partners in proportion of interest
34 assigned to each partner at the time the property or
35 interest was acquired unless otherwise expressly agreed
36 in writing by both parties. Upon termination of the
37 domestic partnership, this subdivision shall govern the
38 division of any property jointly acquired by the partners.

39 (f) The formation of a domestic partnership under this
40 division shall not change the individual income or estate



1 tax liability of each domestic partner prior to and during
2 the partnership, unless otherwise provided under
3 another state or federal law or regulation.

4 SEC. 2. *Section 27491.4 of the Government Code is*
5 *amended to read:*

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

32 (b) In any case in which the coroner knows, or has
33 reason to believe, that the deceased has made valid
34 provision for the disposition of his or her body or a part
35 or parts thereof for medical or scientific purposes in
36 accordance with Chapter 3.5 (commencing with Section
37 7150) of Part 1 of Division 7 of the Health and Safety Code,
38 the coroner shall neither perform nor authorize any other
39 person to perform an autopsy on the body unless the
40 coroner has contacted or attempted to contact the



1 physician last in attendance to the deceased. If the
2 physician cannot be contacted, the coroner shall then
3 notify or attempt to notify one of the following of the need
4 for an autopsy to determine the cause of death: (1) the
5 surviving spouse *or domestic partner*; (2) a surviving
6 child or parent; (3) a surviving brother or sister; (4) any
7 other kin or person who has acquired the right to control
8 the disposition of the remains. Following a period of 24
9 hours after attempting to contact the physician last in
10 attendance and notifying or attempting to notify one of
11 the responsible parties listed above, the coroner may
12 perform or authorize the performance of an autopsy, as
13 otherwise authorized or required by law.

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

20 *SEC. 3. Section 27520 of the Government Code is*
21 *amended to read:*

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

31 *SEC. 4. Section 1261.1 is added to the Health and*
32 *Safety Code, to read:*

33 1261.1. (a) *If the attending physician and surgeon of*
34 *a patient in a health facility prescribes or orders a medical*
35 *intervention that requires informed consent be obtained*
36 *prior to administration of the medical intervention, but*
37 *is unable to obtain informed consent because the*
38 *physician and surgeon determines that the patient lacks*
39 *capacity to make decisions concerning his or her health*
40 *care and that there is no person with legal authority to*



1 *make those decisions on behalf of the patient, the*
2 *physician and surgeon shall inform the health facility.*

3 *(b) For purposes of subdivision (a), a patient lacks*
4 *capacity to make a decision regarding his or her health*
5 *care if the patient is unable to understand the nature and*
6 *consequences of the proposed medical intervention,*
7 *including its risks and benefits, or is unable to express a*
8 *preference regarding the intervention. To make the*
9 *determination regarding capacity, the physician shall*
10 *interview the patient, review the patient's medical*
11 *records, and consult with the health facility staff, as*
12 *appropriate, and family members and friends of the*
13 *patient, if any have been identified.*

14 *(c) For purposes of subdivision (a), a person with legal*
15 *authority to make medical treatment decisions on behalf*
16 *of a patient is a person designated under a valid Power of*
17 *Attorney for Health Care, a guardian, a conservator, or*
18 *the patient's family members. To determine the*
19 *existence of a person with legal authority, the physician*
20 *shall interview the patient, review the medical records of*
21 *the patient and consult with the health facility staff, as*
22 *appropriate, and family members and friends of the*
23 *patient, if any have been identified. For purposes of*
24 *determining the existence of a person with legal*
25 *authority, family members include, but are not limited to,*
26 *a patient's domestic partner, the children of the patient's*
27 *domestic partner, and the domestic partner of the*
28 *patient's parent or child.*

29 *(d) For purposes of this section, "domestic partner"*
30 *means a person who has filed a 'Declaration of Domestic*
31 *Partnership' with the Secretary of State pursuant to*
32 *Division 2.5 (commencing with Section 297) of the*
33 *Family Code as long as that domestic partnership has not*
34 *been terminated pursuant to Section 299 of the Family*
35 *Code.*

36 *SEC. 5. Section 7100 of the Health and Safety Code is*
37 *amended to read:*

38 *7100. (a) The right to control the disposition of the*
39 *remains of a deceased person, the location and conditions*
40 *of interment, and arrangements for funeral goods and*



1 services to be provided, unless other directions have been
2 given by the decedent pursuant to Section 7100.1, vests in,
3 and the duty of disposition and the liability for the
4 reasonable cost of disposition of the remains devolves
5 upon, the following in the order named:

6 (1) An agent under a power of attorney for health care
7 governed by Division 4.7 (commencing with Section
8 4600) of the Probate Code.

9 (2) The competent surviving spouse *or domestic*
10 *partner*.

11 (3) The sole surviving competent adult child of the
12 decedent, or if there is more than one competent adult
13 child of the decedent, the majority of the surviving
14 competent adult children. However, less than one-half of
15 the surviving adult children shall be vested with the
16 rights and duties of this section if they have used
17 reasonable efforts to notify all other surviving competent
18 adult children of their instructions and are not aware of
19 any opposition to those instructions on the part of more
20 than one-half of all surviving competent adult children.

21 (4) The surviving competent parent or parents of the
22 decedent. If one of the surviving competent parents is
23 absent, the remaining competent parent shall be vested
24 with the rights and duties of this section after reasonable
25 efforts have been unsuccessful in locating the absent
26 surviving competent parent.

27 (5) The surviving competent adult person or persons
28 respectively in the next degrees of kindred. If there is
29 more than one surviving competent adult person of the
30 same degree of kindred, the majority of those persons.
31 Less than the majority of surviving competent adult
32 persons of the same degree of kindred shall be vested
33 with the rights and duties of this section if those persons
34 have used reasonable efforts to notify all other surviving
35 competent adult persons of the same degree of kindred
36 of their instructions and are not aware of any opposition
37 to those instructions on the part of one-half or more of all
38 surviving competent adult persons of the same degree of
39 kindred.



1 (6) The public administrator when the deceased has
2 sufficient assets.

3 (b) (1) If any person to whom the right of control has
4 vested pursuant to subdivision (a) has been charged with
5 first or second degree murder or voluntary manslaughter
6 in connection with the decedent's death and those
7 charges are known to the funeral director or cemetery
8 authority, the right of control is relinquished and passed
9 on to the next of kin in accordance with subdivision (a).

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

13 (3) Notwithstanding this subdivision, no person who
14 has been charged with first or second degree murder or
15 voluntary manslaughter in connection with the
16 decedent's death to whom the right of control has not
17 been returned pursuant to paragraph (2) shall have any
18 right to control disposition pursuant to subdivision (a)
19 which shall be applied, to the extent the funeral director
20 or cemetery authority know about the charges, as if that
21 person did not exist.

22 (c) A funeral director or cemetery authority shall have
23 complete authority to control the disposition of the
24 remains, and to proceed under this chapter to recover
25 usual and customary charges for the disposition, when
26 both of the following apply:

27 (1) Either of the following applies:

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

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

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

39 (d) The liability for the reasonable cost of final
40 disposition devolves jointly and severally upon all kin of



1 the decedent in the same degree of kindred and upon the
2 estate of the decedent. However, if a person accepts the
3 gift of an entire body under subdivision (a) of Section
4 7155.5, that person, subject to the terms of the gift, shall
5 be liable for the reasonable cost of final disposition of the
6 decedent.

7 (e) This section shall be administered and construed to
8 the end that the expressed instructions of the decedent
9 or the person entitled to control the disposition shall be
10 faithfully and promptly performed.

11 (f) A funeral director or cemetery authority shall not
12 be liable to any person or persons for carrying out the
13 instructions of the decedent or the person entitled to
14 control the disposition.

15 (g) For purposes of this section, “adult” means an
16 individual who has attained 18 years of age, “child” means
17 a natural or adopted child of the decedent, and
18 “competent” means an individual who has not been
19 declared incompetent by a court of law or who has been
20 declared competent by a court of law following a
21 declaration of incompetence.

22 *SEC. 6. Section 7113 of the Health and Safety Code is*
23 *amended to read:*

24 7113. A cemetery authority or licensed funeral
25 director or a licensed hospital or its authorized personnel
26 may permit or assist, and a physician may perform, an
27 autopsy of any remains in its or his custody if the
28 decedent, prior to his death, authorizes an autopsy in his
29 will or other written instrument, or upon the receipt of
30 a written authorization, telegram, or a verbal
31 authorization obtained by telephone and recorded on
32 tape or other recording device, from a person
33 representing himself to be any of the following:

34 (a) The surviving spouse *or domestic partner*; (b) a
35 surviving child or parent; (c) a surviving brother or sister;
36 (d) any other kin or person who has acquired the right to
37 control the disposition of the remains; (e) a public
38 administrator; (f) a coroner or any other duly authorized
39 public officer. A cemetery authority or a licensed funeral
40 director or a licensed hospital or its authorized personnel



1 is not liable for permitting or assisting, and a physician is
2 not liable for performing, an autopsy pursuant to ~~such~~
3 *that* authorization unless he or it has actual notice that
4 ~~such~~ *the* representation is untrue at the time the autopsy
5 is performed. If such authorization is contained in a will,
6 the autopsy may be performed regardless of the validity
7 of the will in other respects or of the fact that the will may
8 not be offered for or admitted to probate until a later
9 date.

10 This section shall not authorize the obtaining of a verbal
11 authorization by telephone and recorded on tape or other
12 recording device for an autopsy of a deceased person if it
13 is made known to the physician who is to perform the
14 autopsy that the deceased was, at the time of his death, a
15 member of a religion, church, or denomination which
16 relies solely upon prayer for the healing of disease.

17 *SEC. 7.* Section 37 is added to the Probate Code, to
18 read:

19 37. “Domestic partner” means one of two persons
20 who have filed a Declaration of Domestic Partnership
21 with the Secretary of State pursuant to Division 2.5
22 (commencing with Section 297) of the Family Code,
23 provided that the domestic partnership has not been
24 terminated pursuant to Section 299 of the Family Code.

25 ~~*SEC. 3.*~~

26 *SEC. 8.* Section 1460 of the Probate Code is amended
27 to read:

28 1460. (a) Subject to Sections 1202 and 1203, if notice
29 of hearing is required under this division but the
30 applicable provision does not fix the manner of giving
31 notice of hearing, the notice of the time and place of the
32 hearing shall be given at least 15 days before the day of
33 the hearing as provided in this section.

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

- 38 (1) The guardian or conservator.
- 39 (2) The ward or the conservatee.



1 (3) The spouse of the ward or conservatee, if the ward
2 or conservatee has a spouse, *or the domestic partner of*
3 *the conservatee, if the conservatee has a domestic*
4 *partner.*

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

7 (5) For any hearing on a petition to terminate a
8 guardianship, to accept the resignation of, or to remove
9 the guardian, the persons described in subdivision (c) of
10 Section 1510.

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

15 (c) The clerk of the court shall cause the notice of the
16 hearing to be posted as provided in Section 1230 if the
17 posting is required by subdivision (c) of Section 2543
18 (sales).

19 (d) Except as provided in subdivision (e), nothing in
20 this section excuses compliance with the requirements
21 for notice to a person who has requested special notice
22 pursuant to Chapter 10 (commencing with Section 2700)
23 of Part 4.

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

27 *SEC. 9. Section 1811 of the Probate Code is amended*
28 *to read:*

29 1811. (a) The spouse, *domestic partner*, or an adult
30 child, parent, brother, or sister of the proposed
31 conservatee may nominate a conservator in the petition
32 or at the hearing on the petition.

33 (b) The spouse, *domestic partner*, or a parent of the
34 proposed conservatee may nominate a conservator in a
35 writing signed either before or after the petition is filed
36 and ~~such~~ *that* nomination remains effective
37 notwithstanding the subsequent legal incapacity or death
38 of the spouse, *domestic partner*, or parent, except that a
39 nomination by the spouse becomes void upon dissolution
40 or an adjudication of nullity of their marriage *and a*



1 *nomination by a domestic partner becomes void upon*
2 *termination of the domestic partnership.*

3 *SEC. 10. Section 1812 of the Probate Code is amended*
4 *to read:*

5 1812. (a) Subject to Sections 1810 and 1813, the
6 selection of a conservator of the person or estate, or both,
7 is solely in the discretion of the court and, in making the
8 selection, the court is to be guided by what appears to be
9 for the best interests of the proposed conservatee.

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

14 (1) The spouse *or domestic partner* of the proposed
15 conservatee or the person nominated by the spouse *or*
16 *domestic partner* pursuant to Section 1811.

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

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

21 (4) A brother or sister of the proposed conservatee or
22 the person nominated by the brother or sister pursuant
23 to Section 1811.

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

28 (c) The preference for any nominee for appointment
29 under paragraphs (2), (3), and (4) of subdivision (b) is
30 subordinate to the preference for any other parent, child,
31 brother, or sister in ~~such~~ *that* class.

32 *SEC. 11. Section 1820 of the Probate Code is amended*
33 *to read:*

34 1820. (a) A petition for the appointment of a
35 conservator may be filed by any of the following:

36 (1) The proposed conservatee.

37 (2) The spouse *or domestic partner* of the proposed
38 conservatee.

39 (3) A relative of the proposed conservatee.



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

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

6 (b) If the proposed conservatee is a minor, the petition
7 may be filed during his or her minority so that the
8 appointment of a conservator may be made effective
9 immediately upon the minor's attaining the age of
10 majority. An existing guardian of the minor may be
11 appointed as conservator under this part upon the
12 minor's attaining the age of majority, whether or not the
13 guardian's accounts have been settled.

14 (c) A creditor of the proposed conservatee may not
15 file a petition for appointment of a conservator unless the
16 creditor is a person described in paragraph (2), (3), or (4)
17 of subdivision (a).

18 *SEC. 12. Section 1821 of the Probate Code is amended*
19 *to read:*

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

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

36 (2) The location of the proposed conservatee's
37 residence and the ability of the proposed conservatee to
38 live in the residence while under conservatorship.



1 (3) Alternatives to conservatorship considered by the
2 petitioner and reasons why those alternatives are not
3 available.

4 (4) Health or social services provided to the proposed
5 conservatee during the year preceding the filing of the
6 petition, when the petitioner has information as to those
7 services.

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

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

16 Where any of the categories set forth in paragraphs (1)
17 to (5), inclusive, are not applicable to the proposed
18 conservatorship, the petitioner shall so indicate and state
19 on the supplemental information form the reasons
20 therefor.

21 The Judicial Council shall develop a supplemental
22 information form for the information required pursuant
23 to paragraphs (1) to (5), inclusive, after consultation with
24 individuals or organizations approved by the Judicial
25 Council, who represent public conservators, court
26 investigators, the State Bar, specialists with experience in
27 performing assessments and coordinating
28 community-based services, and legal services for the
29 elderly and disabled.

30 The supplemental information form shall be separate
31 and distinct from the form for the petition. The
32 supplemental information shall be confidential and shall
33 be made available only to parties, persons given notice of
34 the petition who have requested this supplemental
35 information or who have appeared in the proceedings,
36 their attorneys, and the court. The court shall have
37 discretion at any other time to release the supplemental
38 information to other persons if it would serve the interests
39 of the conservatee. The county clerk shall make provision



1 for limiting disclosure of the supplemental information
2 exclusively to persons entitled thereto under this section.

3 (b) The petition shall set forth, so far as they are known
4 to the petitioner, the names and addresses of the spouse
5 *or domestic partner*, and of the relatives of the proposed
6 conservatee within the second degree. If no spouse *or*
7 *domestic partner* of the proposed conservatee, or
8 relatives of the proposed conservatee within the second
9 degree are known to the petitioner, the petition shall set
10 forth, so far as they are known to the petitioner, the names
11 and addresses of the following persons who, for the
12 purposes of Section 1822, shall all be deemed to be
13 relatives:

14 (1) A spouse *or domestic partner* of a predeceased
15 parent of a proposed conservatee.

16 (2) The children of a predeceased spouse *or domestic*
17 *partner* of a proposed conservatee.

18 (3) The siblings of the proposed conservatee's parents,
19 if any, but if none, then the natural and adoptive children
20 of the proposed conservatee's parents' siblings.

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

23 (c) If the petition is filed by a person other than the
24 proposed conservatee, the petition shall state whether or
25 not the petitioner is a creditor or debtor, or the agent of
26 a creditor or debtor, of the proposed conservatee.

27 (d) If the proposed conservatee is a patient in or on
28 leave of absence from a state institution under the
29 jurisdiction of the State Department of Mental Health or
30 the State Department of Developmental Services and
31 that fact is known to the petitioner, the petition shall state
32 that fact and name the institution.

33 (e) The petition shall state, so far as is known to the
34 petitioner, whether or not the proposed conservatee is
35 receiving or is entitled to receive benefits from the
36 Veterans Administration and the estimated amount of
37 the monthly benefit payable by the Veterans
38 Administration for the proposed conservatee.

39 (f) The petition may include an application for any
40 order or orders authorized under this division, including,



1 but not limited to, orders under Chapter 4 (commencing
2 with Section 1870).

3 (g) The petition may include a further statement that
4 the proposed conservatee is not willing to attend the
5 hearing on the petition, does not wish to contest ~~he~~ *the*
6 establishment of the conservatorship, and does not object
7 to the proposed conservator or prefer that another person
8 act as conservator.

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

11 (1) The nature and degree of the alleged disability, the
12 specific duties and powers requested by or for the limited
13 conservator, and the limitations of civil and legal rights
14 requested to be included in the court's order of
15 appointment.

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

18 Reports submitted pursuant to Section 416.8 of the
19 Health and Safety Code meet the requirements of this
20 section, and conservatorships filed pursuant to Article 7.5
21 (commencing with Section 416) of Part 1 of Division 1 of
22 the Health and Safety Code are exempt from providing
23 the supplemental information required by this section, so
24 long as the guidelines adopted by the State Department
25 of Developmental Services for regional centers require
26 the same information which is required pursuant to this
27 section.

28 *SEC. 13. Section 1822 of the Probate Code is amended*
29 *to read:*

30 1822. (a) At least 15 days before the hearing on the
31 petition for appointment of a conservator, notice of the
32 time and place of the hearing shall be given as provided
33 in this section. The notice shall be accompanied by a copy
34 of the petition. The court may not shorten the time for
35 giving the notice of hearing under this section.

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

37 (1) The spouse, if any, *or domestic partner, if any*, of
38 the proposed conservatee at the address stated in the
39 petition.



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

3 (c) If notice is required by Section 1461 to be given to
4 the Director of Mental Health or the Director of
5 Developmental Services, notice shall be mailed as so
6 required.

7 (d) If the petition states that the proposed conservatee
8 is receiving or is entitled to receive benefits from the
9 Veterans Administration, notice shall be mailed to the
10 office of the Veterans Administration referred to in
11 Section 1461.5.

12 (e) If the proposed conservatee is a person with
13 developmental disabilities, at least 30 days before the day
14 of the hearing on the petition, the petitioner shall mail a
15 notice of the hearing and a copy of the petition to the
16 regional center identified in Section 1827.5.

17 *SEC. 14. Section 1829 of the Probate Code is amended*
18 *to read:*

19 1829. Any of the following persons may appear at the
20 hearing to support or oppose the petition:

21 (a) The proposed conservatee.

22 (b) The spouse *or domestic partner* of the proposed
23 conservatee.

24 (c) A relative of the proposed conservatee.

25 (d) Any interested person or friend of the proposed
26 conservatee.

27 *SEC. 15. Section 1861 of the Probate Code is amended*
28 *to read:*

29 1861. (a) A petition for the termination of the
30 conservatorship may be filed by any of the following:

31 (1) The conservator.

32 (2) The conservatee.

33 (3) ~~The spouse or any interested person or spouse, or~~
34 *domestic partner; or any* relative or friend of the
35 conservatee *or other interested person.*

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

38 *SEC. 16. Section 1863 of the Probate Code is amended*
39 *to read:*



1 1863. (a) The court shall hear and determine the
2 matter according to the law and procedure relating to the
3 trial of civil actions, including trial by jury if demanded.
4 The conservator, the conservatee, or the spouse, *or*
5 *domestic partner*, or any relative or friend of the
6 conservatee or other interested person may appear and
7 support or oppose the petition.

8 (b) If the court determines that the conservatorship is
9 no longer required or that grounds for establishment of
10 a conservatorship of the person or estate, or both, no
11 longer exist, the court shall make ~~such a~~ *this* finding and
12 shall enter judgment terminating the conservatorship
13 accordingly.

14 (c) At the hearing, or thereafter on further notice and
15 hearing, the conservator may be discharged and the bond
16 given by the conservator may be exonerated upon the
17 settlement and approval of the conservator's final
18 account by the court.

19 (d) Termination of conservatorship does not preclude
20 a new proceeding for appointment of a conservator on
21 the same or other grounds.

22 *SEC. 17. Section 1871 of the Probate Code is amended*
23 *to read:*

24 1871. Nothing in this article shall be construed to deny
25 a conservatee any of the following:

26 (a) The right to control an allowance provided under
27 Section 2421.

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

30 (c) The right to make a will.

31 (d) The right to enter into transactions to the extent
32 reasonable to provide the necessities of life to the
33 conservatee and the spouse and minor children of the
34 conservatee *and to provide the basic living expenses, as*
35 *defined in Section 297 of the Family Code, to the domestic*
36 *partner of the conservatee.*

37 *SEC. 18. Section 1873 of the Probate Code is amended*
38 *to read:*

39 1873. (a) In the order appointing the conservator or
40 upon a petition filed under Section 1874, the court may by



1 order authorize the conservatee, subject to Section 1876,
2 to enter into ~~such~~ transactions or types of transactions as
3 may be appropriate in the circumstances of the particular
4 conservatee and conservatorship estate. The court, by
5 order, may modify the legal capacity a conservatee would
6 otherwise have under Section 1872 by broadening or
7 restricting the power of the conservatee to enter into
8 ~~such~~ transactions or types of transactions as may be
9 appropriate in the circumstances of the particular
10 conservatee and conservatorship estate.

11 (b) In an order made under this section, the court may
12 include ~~such~~ limitations or conditions on the exercise of
13 the authority granted to the conservatee as the court
14 determines to be appropriate including, but not limited
15 to, the following:

16 (1) A requirement that for specific types of
17 transactions or for all transactions authorized by the
18 order, the conservatee obtain prior approval of the
19 transaction by the court or conservator before exercising
20 the authority granted by the order.

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

25 (c) The court, in its discretion, may provide in the
26 order that, unless extended by subsequent order of the
27 court, the order or specific provisions of the order
28 terminate at a time specified in the order.

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

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

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

33 (3) The time the conservatorship of the estate is
34 terminated.

35 (e) An order under this section may be modified or
36 revoked upon petition filed by the conservator,
37 conservatee, the spouse *or domestic partner* of the
38 conservatee, or any relative or friend of the conservatee,
39 or any interested person. Notice of the hearing on the
40 petition shall be given for the period and in the manner



1 provided in Chapter 3 (commencing with Section 1460)
2 of Part 1.

3 *SEC. 19. Section 1874 of the Probate Code is amended*
4 *to read:*

5 1874. (a) After a conservator has been appointed, a
6 petition requesting an order under Section 1873 may be
7 filed by any of the following:

8 (1) The conservator.

9 (2) The conservatee.

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

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

15 *SEC. 20. Section 1891 of the Probate Code is amended*
16 *to read:*

17 1891. (a) A petition may be filed under this article
18 requesting that the court make an order under Section
19 1880 or that the court modify or revoke an order made
20 under Section 1880. The petition shall state facts showing
21 that the order requested is appropriate.

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

23 (1) The conservator.

24 (2) The conservatee.

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

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

31 *SEC. 21. Section 1895 of the Probate Code is amended*
32 *to read:*

33 1895. (a) The conservatee, the spouse ~~or any relative~~
34 ~~or~~, *the domestic partner, any relative, or any* friend of the
35 conservatee, the conservator, or any other interested
36 person may appear at the hearing to support or oppose
37 the petition.

38 (b) Except where the conservatee is absent from the
39 hearing and is not required to attend the hearing under
40 the provisions of Section 1893 and any showing required



1 by Section 1893 has been made, the court shall, prior to
2 granting the petition, inform the conservatee of all of the
3 following:

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

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

7 (3) The conservatee has the right to oppose the
8 petition, to be represented by legal counsel if the
9 conservatee so chooses, and to have legal counsel
10 appointed by the court if unable to retain legal counsel.

11 (c) After the court informs the conservatee of the
12 matters listed in subdivision (b) and prior to granting the
13 petition, the court shall consult the conservatee to
14 determine the conservatee's opinion concerning the
15 order requested in the petition.

16 *SEC. 22. Section 2212 of the Probate Code is amended*
17 *to read:*

18 2212. The petition for transfer may be filed only by
19 one or more of the following:

20 (a) The guardian or conservator.

21 (b) The ward or conservatee.

22 (c) The spouse of the ward or *the spouse or domestic*
23 *partner of the conservatee.*

24 (d) A relative or friend of the ward or conservatee.

25 (e) Any other interested person.

26 *SEC. 23. Section 2213 of the Probate Code is amended*
27 *to read:*

28 2213. The petition for transfer shall set forth all of the
29 following:

30 (a) The county to which the proceeding is to be
31 transferred.

32 (b) The name and address of the ward or conservatee.

33 (c) A brief description of the character, value, and
34 location of the property of the ward or conservatee.

35 (d) The reasons for the transfer.

36 (e) The names and addresses, so far as they are known
37 to the petitioner, of the spouse and of the relatives of the
38 ward *within the second degree, or of the spouse or*
39 *domestic partner and of the relatives of the conservatee*
40 *within the second degree.*



1 (f) The name and address of the guardian or
2 conservator if other than the petitioner.

3 *SEC. 24. Section 2357 of the Probate Code is amended*
4 *to read:*

5 2357. (a) As used in this section:

6 (1) “Guardian or conservator” includes a temporary
7 guardian of the person or a temporary conservator of the
8 person.

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

12 (b) If the ward or conservatee requires medical
13 treatment for an existing or continuing medical condition
14 which is not authorized to be performed upon the ward
15 or conservatee under Section 2252, 2353, 2354, or 2355,
16 and the ward or conservatee is unable to give an informed
17 consent to ~~such~~ *this* medical treatment, the guardian or
18 conservator may petition the court under this section for
19 an order authorizing ~~such~~ *the* medical treatment and
20 authorizing the guardian or conservator to consent on
21 behalf of the ward or conservatee to ~~such~~ *the* medical
22 treatment.

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

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

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

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

33 (4) The predictable or probable outcome of the
34 recommended course of treatment.

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

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

39 (7) The name and addresses, so far as they are known
40 to the petitioner, of the persons specified in subdivision



1 (c) of Section 1510 in a guardianship proceeding or
2 subdivision (b) of Section 1821 in a conservatorship
3 proceeding.

4 (d) Upon the filing of the petition, unless an attorney
5 is already appointed the court shall appoint the public
6 defender or private counsel under Section 1471, to
7 consult with and represent the ward or conservatee at the
8 hearing on the petition and, if that appointment is made,
9 Section 1472 applies.

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

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

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

20 (A) The spouse *or domestic partner*, if any, of the
21 proposed conservatee at the address stated in the
22 petition.

23 (B) The relatives named in the petition at their
24 addresses stated in the petition.

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

29 (1) The existing medical facts and circumstances set
30 forth in the petition or in a medical affidavit attached to
31 the petition or in a medical affidavit presented to the
32 court.

33 (2) The desirability, where the condition of the ward
34 or conservatee permits, of giving adequate notice to all
35 interested persons.

36 (g) Notwithstanding subdivisions (e) and (f), the
37 matter may be submitted for the determination of the
38 court upon proper and sufficient medical affidavits or
39 declarations if the attorney for the petitioner and the
40 attorney for the ward or conservatee so stipulate and



1 further stipulate that there remains no issue of fact to be
2 determined.

3 (h) The court may make an order authorizing the
4 recommended course of medical treatment of the ward
5 or conservatee and authorizing the guardian or
6 conservator to consent on behalf of the ward or
7 conservatee to the recommended course of medical
8 treatment for the ward or conservatee if the court
9 determines from the evidence all of the following:

10 (1) The existing or continuing medical condition of
11 the ward or conservatee requires the recommended
12 course of medical treatment.

13 (2) If untreated, there is a probability that the
14 condition will become life-endangering or result in a
15 serious threat to the physical or mental health of the ward
16 or conservatee.

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

20 (i) Upon petition of the ward or conservatee or other
21 interested person, the court may order that the guardian
22 or conservator obtain or consent to, or obtain and consent
23 to, specified medical treatment to be performed upon the
24 ward or conservatee. Notice of the hearing on the petition
25 under this subdivision shall be given for the period and in
26 the manner provided in Chapter 3 (commencing with
27 Section 1460) of Part 1.

28 *SEC. 25. Section 2423 of the Probate Code is amended*
29 *to read:*

30 2423. (a) Upon petition of the conservator, the
31 conservatee, the spouse *or domestic partner* of the
32 conservatee, or a relative within the second degree of the
33 conservatee, the court may by order authorize or direct
34 the conservator to pay and distribute surplus income of
35 the estate or any part of ~~such~~ *the* surplus income (not
36 used for the support, maintenance, and education of the
37 conservatee and of those legally entitled to support,
38 maintenance, or education from the conservatee) to the
39 spouse *or domestic partner* of the conservatee and to
40 ~~such~~ relatives within the second degree of the



1 conservatee whom the conservatee would, in the
2 judgment of the court, have aided but for the existence
3 of the conservatorship. The court in ordering payments
4 under this section may impose conditions if the court
5 determines that the conservatee would have imposed
6 ~~such~~ *the* conditions if the conservatee had the capacity to
7 act.

8 (b) The granting of the order and the amounts and
9 proportions of the payments are discretionary with the
10 court, but the court shall consider all of the following:

11 (1) The amount of surplus income available after
12 adequate provision has been made for the comfortable
13 and suitable support, maintenance, and education of the
14 conservatee and of those legally entitled to support,
15 maintenance, or education from the conservatee.

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

19 (3) The amount—~~which~~ *that* the conservatee would in
20 the judgment of the court have allowed the spouse *or*
21 *domestic partner* and—~~such~~ relatives but for the existence
22 of the conservatorship.

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

26 *SEC. 26. Section 2430 of the Probate Code is amended*
27 *to read:*

28 2430. (a) Subject to subdivisions (b) and (c), the
29 guardian or conservator shall pay the following from any
30 principal and income of the estate:

31 (1) The debts incurred by the ward or conservatee
32 before creation of the guardianship or conservatorship,
33 giving priority to the debts described in Section 2431 to
34 the extent required by that section.

35 (2) The debts incurred by the ward or conservatee
36 during the guardianship or conservatorship to provide
37 the necessities of life to the ward or conservatee, and to
38 the spouse and minor children of the ward or
39 conservatee, to the extent the debt is reasonable. *Also, the*
40 *debts reasonably incurred by the conservatee during the*



1 *conservatorship to provide the basic living expenses, as*
2 *defined in Section 297 of the Family Code, to the domestic*
3 *partner of the conservatee. The guardian or conservator*
4 *may deduct the amount of any payments for—such these*
5 *debts from any allowance otherwise payable to the ward*
6 *or conservatee.*

7 (3) In the case of a conservatorship, any other debt
8 incurred by the conservatee during the conservatorship
9 only if the debt satisfies the requirements of any order
10 made under Chapter 4 (commencing with Section 1870)
11 of Part 3.

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

16 ~~(i)~~

17 (A) The guardian or conservator of the person or
18 estate or both.

19 ~~(ii)~~

20 (B) An attorney for the guardian or conservator of the
21 person or estate or both.

22 ~~(iii)~~

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

24 ~~(iv)~~

25 (D) An attorney for the estate.

26 ~~(v)~~

27 (E) The public guardian for the costs and fee under
28 Section 2902.

29 (b) The payments provided for by paragraph (3) of
30 subdivision (a) are not required to be made to the extent
31 ~~such~~ *the* payments would impair the ability to provide
32 *the* necessities of life to the conservatee and the spouse
33 and minor children *of the conservatee and to provide the*
34 *basic living expenses, as defined in Section 297 of the*
35 *Family Code, of the domestic partner* of the conservatee.

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

39 SEC. 27. *Section 2504 of the Probate Code is amended*
40 *to read:*



1 2504. Court approval is required for the compromise
2 or settlement of any of the following:

3 (a) A claim for the support, maintenance, or education
4 of (1) the ward or conservatee, or (2) a person whom the
5 ward or conservatee is legally obligated to support,
6 maintain, or educate, against any other person
7 (including, but not limited to, the spouse or parent of the
8 ward or the spouse, *domestic partner*, parent, or adult
9 child of the conservatee).

10 (b) A claim of the ward or conservatee for wrongful
11 death.

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

14 *SEC. 28. Section 2572 of the Probate Code is amended*
15 *to read:*

16 2572. An order authorizing the guardian or
17 conservator to purchase real property may authorize the
18 guardian or conservator to join with the spouse of the
19 ward or *the spouse or domestic partner of the*
20 conservatee or with any other person or persons in the
21 purchase of the real property, or an interest, equity, or
22 estate therein, in severalty, in common, in community, or
23 in joint tenancy, for cash or upon a credit or for part cash
24 and part credit. When the court authorizes the purchase
25 of real property, the court may order the guardian or
26 conservator to execute all necessary instruments and
27 commitments to complete the transaction.

28 *SEC. 29. Section 2580 of the Probate Code is amended*
29 *to read:*

30 2580. (a) The conservator or other interested person
31 may file a petition under this article for an order of the
32 court authorizing or requiring the conservator to take a
33 proposed action for any one or more of the following
34 purposes:

35 (1) Benefiting the conservatee or the estate.

36 (2) Minimizing current or prospective taxes or
37 expenses of administration of the conservatorship estate
38 or of the estate upon the death of the conservatee.

39 (3) Providing gifts for any purposes, and to any
40 charities, relatives (including the other spouse)—*or*



1 *domestic partner*), friends, or other objects of bounty, as
2 would be likely beneficiaries of gifts from the
3 conservatee.

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

6 (1) Making gifts of principal or income, or both, of the
7 estate, outright or in trust.

8 (2) Conveying or releasing the conservatee's
9 contingent and expectant interests in property, including
10 marital property rights and any right of survivorship
11 incident to joint tenancy or tenancy by the entirety.

12 (3) Exercising or releasing the conservatee's powers as
13 donee of a power of appointment.

14 (4) Entering into contracts.

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

23 (6) Transferring to a trust created by the conservator
24 or conservatee any property unintentionally omitted
25 from the trust.

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

28 (8) Exercising the rights of the conservatee to elect
29 benefit or payment options, to terminate, to change
30 beneficiaries or ownership, to assign rights, to borrow, or
31 to receive cash value in return for a surrender of rights
32 under any of the following:

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

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

35 (iii) Mutual fund and other dividend investment
36 plans.

37 (iv) Retirement, profit-sharing, and employee welfare
38 plans and benefits.

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



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

4 (11) Exercising the right of the conservatee (i) to
5 revoke or modify a revocable trust or (ii) to surrender the
6 right to revoke or modify a revocable trust, but the court
7 shall not authorize or require the conservator to exercise
8 the right to revoke or modify a revocable trust if the
9 instrument governing the trust (i) evidences an intent to
10 reserve the right of revocation or modification
11 exclusively to the conservatee, (ii) provides expressly
12 that a conservator may not revoke or modify the trust, or
13 (iii) otherwise evidences an intent that would be
14 inconsistent with authorizing or requiring the
15 conservator to exercise the right to revoke or modify the
16 trust.

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

19 (13) Making a will.

20 *SEC. 30. Section 2614.5 of the Probate Code is*
21 *amended to read:*

22 2614.5. (a) If the guardian or conservator fails to file
23 an inventory and appraisal within the time allowed by law
24 or by court order, upon request of the ward or
25 conservatee, the spouse *of the ward or the spouse or*
26 *domestic partner of the conservatee*, any relative or
27 friend of the ward or conservatee, or any interested
28 person, the court shall order the guardian or conservator
29 to file the inventory and appraisal within ~~such time as the~~
30 *time prescribed in the order* ~~prescribes~~ or to show cause
31 why the guardian or conservator should not be removed.
32 The person who requested the order shall serve it upon
33 the guardian or conservator in the manner provided in
34 Section 415.10 or 415.30 of the Code of Civil Procedure or
35 in ~~such~~ a manner as is ordered by the court.

36 (b) If the guardian or conservator fails to file the
37 inventory and appraisal as required by the order within
38 the time prescribed in the order, unless good cause is
39 shown for not doing so, the court, on its own motion or on
40 petition, may remove the guardian or conservator,



1 revoke the letters of guardianship or conservatorship, and
2 enter judgment accordingly, and order the guardian or
3 conservator to file an account and to surrender the estate
4 to the person legally entitled thereto.

5 (c) The procedure provided in this section is optional
6 and does not preclude the use of any other remedy or
7 sanction when an inventory and appraisal is not timely
8 filed.

9 *SEC. 31. Section 2622 of the Probate Code is amended*
10 *to read:*

11 2622. The ward or conservatee, the spouse *of the*
12 *ward* or *the spouse or domestic partner of the*
13 *conservatee*, any relative or friend of the ward or
14 conservatee, or any creditor or other interested person
15 may file written objections to the account of the guardian
16 or conservator, stating the items of the account to which
17 objection is made and the basis for the objection.

18 *SEC. 32. Section 2651 of the Probate Code is amended*
19 *to read:*

20 2651. The ward or conservatee, the spouse *or the*
21 *ward* or *the spouse of domestic partner of the*
22 *conservatee*, any relative or friend of the ward or
23 conservatee, or any interested person may apply by
24 petition to the court to have the guardian or conservator
25 removed. The petition shall state facts showing cause for
26 removal.

27 *SEC. 33. Section 2653 of the Probate Code is amended*
28 *to read:*

29 2653. (a) The guardian or conservator, the ward or
30 conservatee, the spouse *of the ward* or *the spouse or*
31 *domestic partner of the conservatee*, any relative or
32 friend of the ward or conservatee, and any interested
33 person, may appear at the hearing and support or oppose
34 the petition.

35 (b) If the court determines that cause for removal of
36 the guardian or conservator exists, the court may remove
37 the guardian or conservator, revoke the letters of
38 guardianship or conservatorship, and enter judgment
39 accordingly and, in the case of a guardianship or
40 conservatorship of the estate, order the guardian or



1 conservator to file an account and to surrender the estate
2 to the person legally entitled thereto. If the guardian or
3 conservator fails to file the account as ordered, the court
4 may compel the account pursuant to Section 2629.

5 *SEC. 34. Section 2681 of the Probate Code is amended*
6 *to read:*

7 2681. A petition for appointment of a successor
8 conservator may be filed by any of the following:

9 (a) The conservatee.

10 (b) The spouse *or domestic partner* of the
11 conservatee.

12 (c) A relative of the conservatee.

13 (d) Any interested state or local entity or agency of
14 this state or any interested public officer or employee of
15 this state or of a local public entity of this state.

16 (e) Any other interested person or friend of the
17 conservatee.

18 *SEC. 35. Section 2682 of the Probate Code is amended*
19 *to read:*

20 2682. (a) The petition shall request that a successor
21 conservator be appointed for the person or estate, or
22 both, and shall specify the name and address of the
23 proposed successor conservator and the name and
24 address of the conservatee.

25 (b) The petition shall set forth, so far as they are known
26 to the petitioner, the names and addresses of the spouse
27 *or domestic partner* and of the relatives of the
28 conservatee within the second degree.

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

32 (d) If the conservatee is a patient in or on leave of
33 absence from a state institution under the jurisdiction of
34 the State Department of Mental Health or the State
35 Department of Developmental Services and that fact is
36 known to the petitioner, the petition shall state that fact
37 and name the institution.

38 (e) The petition shall state, so far as is known to the
39 petitioner, whether or not the conservatee is receiving or
40 is entitled to receive benefits from the Veterans



1 Administration and the estimated amount of the monthly
2 benefit payable by the Veterans Administration for the
3 conservatee.

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

6 *SEC. 36. Section 2687 of the Probate Code is amended*
7 *to read:*

8 2687. The conservatee, the spouse, *the domestic*
9 *partner*, or any relative or friend of the conservatee, or
10 any other interested person may appear at the hearing to
11 support or oppose the petition.

12 *SEC. 37. Section 2700 of the Probate Code is amended*
13 *to read:*

14 2700. (a) At any time after the issuance of letters of
15 guardianship or conservatorship, the ward, if over 14
16 years of age or the conservatee, the spouse *of the ward* or
17 *the spouse or domestic partner of the conservatee*, any
18 relative or creditor of the ward or conservatee, or any
19 other interested person, in person or by attorney, may file
20 with the court clerk a written request for special notice.

21 (b) The request for special notice shall be so entitled
22 and shall set forth the name of the person and the address
23 ~~to which~~ *where* notices shall be sent.

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

26 (1) Petitions filed in the guardianship or
27 conservatorship proceeding.

28 (2) Inventories and appraisals of property in the
29 estate, including any supplemental inventories and
30 appraisals.

31 (3) Accounts of the guardian or conservator.

32 (4) Proceedings for the final termination of the
33 guardianship or conservatorship proceeding.

34 (d) Special notice may be requested of:

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

37 (2) All the matters in subdivision (c) by referring
38 generally to “the matters described in subdivision (c) of
39 Section 2700 of the Probate Code” or by using words of
40 similar meaning.



1 (e) A copy of the request shall be personally delivered
2 or mailed to the guardian or conservator or to the
3 attorney for the guardian or conservator. If personally
4 delivered, the request is effective when it is delivered. If
5 mailed, the request is effective when it is received.

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

9 *SEC. 38. Section 2803 of the Probate Code is amended*
10 *to read:*

11 2803. The petition shall set forth all of the following:

12 (a) The name and address of:

13 (1) The foreign guardian or conservator, who may but
14 need not be the guardian or conservator appointed in this
15 state.

16 (2) The ward or conservatee.

17 (3) The guardian or conservator, so far as is known to
18 the petitioner.

19 (b) The names, ages, and addresses, so far as they are
20 known to the petitioner, of the spouse *of the ward or the*
21 *spouse or domestic partner of the conservatee* and of
22 relatives of the ward or conservatee within the second
23 degree.

24 (c) A brief description of the character, condition,
25 value, and location of the personal property sought to be
26 transferred.

27 (d) A statement whether the foreign guardian or
28 conservator has agreed to accept the transfer of the
29 property. If the foreign guardian or conservator has so
30 agreed, the acceptance shall be attached as an exhibit to
31 the petition or otherwise filed with the court.

32 (e) A statement of the manner in which and by whom
33 the foreign guardian or conservator was appointed.

34 (f) A general statement of the qualifications of the
35 foreign guardian or conservator.

36 (g) The amount of bond, if any, of the foreign guardian
37 or conservator.

38 (h) A general statement of the nature and value of the
39 property of the ward or conservatee already under the



1 management or control of the foreign guardian or
2 conservator.

3 (i) The name of the court having jurisdiction of such
4 foreign guardian or conservator or of the accounts of such
5 foreign guardian or conservator or, if none, the court in
6 which a proceeding may be had with respect to the
7 guardianship or conservatorship if the property is
8 transferred.

9 (j) Whether there is any pending civil action in this
10 state against the guardian or conservator, the ward or
11 conservatee, or the estate.

12 (k) A statement of the reasons for the transfer.

13 *SEC. 39. Section 2805 of the Probate Code is amended*
14 *to read:*

15 2805. Any of the following may appear and file
16 written objections to the petition:

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

18 (b) Any creditor of the ward or conservatee or of the
19 estate.

20 (c) The spouse *of the ward or the spouse or domestic*
21 *partner of the conservatee*, or any relative or friend of the
22 ward or conservatee.

23 (d) Any other interested person.

24 *SEC. 40. Section 6240 of the Probate Code is amended*
25 *to read:*

26 6240. The following is the California ~~statutory will~~
27 *Statutory Will* form:

28
29 **QUESTIONS AND ANSWERS ABOUT THIS**
30 **CALIFORNIA STATUTORY WILL**

31
32 The following information, in question and answer
33 form, is not a part of the California Statutory Will. It is
34 designed to help you understand about Wills and to
35 decide if this Will meets your needs. This Will is in a
36 simple form. The complete text of each paragraph of this
37 Will is printed at the end of the Will.

38
39 1. *What happens if I die without a Will?* If you die
40 without a Will, what you own (your “assets”) in your



1 name alone will be divided among your spouse, children,
2 or other relatives according to state law. The court will
3 appoint a relative to collect and distribute your assets. A
4 *domestic partner will not have a right to inherit your*
5 *property without a Will.*

6 2. *What can a Will do for me?* In a Will you may
7 designate who will receive your assets at your death. You
8 may designate someone (called an “executor”) to appear
9 before the court, collect your assets, pay your debts and
10 taxes, and distribute your assets as you specify. You may
11 nominate someone (called a “guardian”) to raise your
12 children who are under age 18. You may designate
13 someone (called a “custodian”) to manage assets for your
14 children until they reach any age between 18 and 25.

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

19 4. *What is community property?* Can I give away my
20 share in my Will? If you are married and you or your
21 spouse earned money during your marriage from work
22 and wages, that money (and the assets bought with it) is
23 community property. Your Will can only give away your
24 one-half of community property. Your Will cannot give
25 away your spouse’s one-half of community property.

26 5. *Does my Will give away all of my assets?* Do all
27 assets go through probate? No. Money in a joint tenancy
28 bank account automatically—~~belong~~ *belongs* to the other
29 named owner without probate. If your spouse, *domestic*
30 *partner*, or child is on the deed to your house as a joint
31 tenant, the house automatically passes to him or her. Life
32 insurance and retirement plan benefits may pass directly
33 to the named beneficiary. A Will does not necessarily
34 control how these types of “nonprobate” assets pass at
35 your death.

36 6. *Are there different kinds of Wills?* Yes. There are
37 handwritten Wills, typewritten Wills, attorney-prepared
38 Wills, and statutory Wills. All are valid if done precisely
39 as the law requires. You should see a lawyer if you do not



1 want to use this statutory Will or if you do not understand
2 this form.

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

8 8. *Are there any reasons why I should NOT use this*
9 *statutory Will?* Yes. This is a simple Will. It is not designed
10 to reduce death taxes or other taxes. Talk to a lawyer to
11 do tax planning, especially if (i) your assets will be worth
12 more than \$600,000 *or the current amount excluded from*
13 *estate tax under federal law* at your death, (ii) you own
14 ~~business-related~~ *business-related* assets, (iii) you want to
15 create a trust fund for your children's education or other
16 purposes, (iv) you own assets in some other state, (v) you
17 want to disinherit your spouse or descendants, or (vi) you
18 have valuable interests in pension or ~~profit-sharing~~
19 *profit-sharing* plans. You should talk to a lawyer who
20 knows about estate planning if this Will does not meet
21 your needs. This Will treats most adopted children like
22 natural children. You should talk to a lawyer if you have
23 stepchildren or foster children whom you have not
24 adopted.

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

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

38 11. *Where should I keep my Will?* After you and the
39 witnesses sign the Will, keep your Will in your safe deposit



1 box or other safe place. You should tell trusted family
2 members where your Will is kept.

3 12. *When should I change my Will?* You should make
4 and sign a new Will if you marry or divorce after you sign
5 this Will. Divorce or annulment automatically cancels all
6 property stated to pass to a former husband or wife under
7 this Will, and revokes the designation of a former spouse
8 as executor, custodian, or guardian. You should sign a new
9 Will when you have more children, or if your spouse or a
10 child dies, *or a domestic partner dies or marries*. You may
11 want to change your Will if there is a large change in the
12 value of your assets. *You may also want to change your*
13 *Will if you enter a domestic partnership or your domestic*
14 *partnership has been terminated after you sign this Will.*

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

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

22 15. *Should I require a bond?* You may require that an
23 executor post a “bond.” A bond is a form of insurance to
24 replace assets that may be mismanaged or stolen by the
25 executor. The cost of the bond is paid from the estate’s
26 assets.

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

30 17. *What is a custodian?* Do I need to designate one?
31 A “custodian” is a person you may designate to manage
32 assets for someone (including a child) who is between
33 ages 18 and 25 and who receives assets under your Will.
34 The custodian manages the assets and pays as much as the
35 custodian determines is proper for health, support,
36 maintenance, and education. The custodian delivers
37 what is left to the person when the person reaches the age
38 you choose (between 18 and 25). No bond is required of
39 a custodian.



1 18. *Should I ask people if they are willing to serve*
2 *before I designate them as executor, guardian, or*
3 *custodian?* Probably yes. Some people and banks and
4 trust companies may not consent to serve or may not be
5 qualified to act.

6 19. *What happens if I make a gift in this Will to*
7 *someone and they die before I do?* A person must survive
8 you by 120 hours to take a gift under this Will. If they do
9 not, then the gift fails and goes with the rest of your assets.
10 If the person who does not survive you is a relative of you
11 or your spouse, then certain assets may go to the relative's
12 descendants.

13 20. *What is a trust?* There are many kinds of trusts,
14 including trusts created by Wills (called "testamentary
15 trusts") and trusts created during your lifetime (called
16 "revocable living trusts"). Both kinds of trusts are
17 long-term arrangements where a manager (called a
18 "trustee") invests and manages assets for someone
19 (called a "beneficiary") on the terms you specify. Trusts
20 are too complicated to be used in this statutory Will. You
21 should see a lawyer if you want to create a trust.

22 21. *What is a domestic partner? You have a domestic*
23 *partner if you have met certain legal requirements and*
24 *filed a form entitled "Declaration of Domestic*
25 *Partnership" with the Secretary of State.*
26 *Notwithstanding Section 299.6 of the Family Code, if you*
27 *have not filed a Declaration of Domestic Partnership with*
28 *the Secretary of State, you do not meet the required*
29 *definition and should not use the section of the Statutory*
30 *Will form that refers to domestic partners even if you*
31 *have registered your domestic partnership with another*
32 *governmental entity. If you are unsure if you have a*
33 *domestic partner or if your domestic partnership meets*
34 *the required definition, please contact the Secretary of*
35 *State's office.*

36



INSTRUCTIONS

1
2

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

6 2. *FILL IN THE BLANKS.* Fill in the blanks. Follow the
7 instructions in the form carefully. Do not add any words
8 to the Will (except for filling in blanks) or cross out any
9 words.

10 3. *DATE AND SIGN THE WILL AND HAVE TWO*
11 *WITNESSES SIGN IT.* Date and sign the Will and have
12 two witnesses sign it. You and the witnesses should read
13 and follow the Notice to Witnesses found at the end of this
14 Will.



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NOTE TO PRINTING OFFICE: INSERT
CAMERA-READY COPY HERE

for California Statutory Will

as printed on pages 17 to 22 of Chapter 1055, 1991 Statutes.



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1 *SEC. 41.* Section 6401 of the Probate Code is amended
2 to read:

3 6401. (a) As to community property, the intestate
4 share of the surviving spouse is the one-half of the
5 community property that belongs to the decedent under
6 Section 100.

7 (b) As to quasi-community property, the intestate
8 share of the surviving spouse is the one-half of the
9 quasi-community property that belongs to the decedent
10 under Section 101.

11 (c) As to separate property, the intestate share of the
12 surviving spouse or domestic partner is as follows:

13 (1) The entire intestate estate if the decedent did not
14 leave any surviving issue, parent, brother, sister, or issue
15 of a deceased brother or sister.

16 (2) One-half of the intestate estate in the following
17 cases:

18 (A) Where the decedent leaves only one child or the
19 issue of one deceased child.

20 (B) Where the decedent leaves no issue but leaves a
21 parent or parents or their issue or the issue of either of
22 them.

23 (3) One-third of the intestate estate in the following
24 cases:

25 (A) Where the decedent leaves more than one child.

26 (B) Where the decedent leaves one child and the issue
27 of one or more deceased children.

28 (C) Where the decedent leaves issue of two or more
29 deceased children.

30 ~~SEC. 4.~~

31 *SEC. 42.* Section 6402 of the Probate Code is amended
32 to read:

33 6402. Except as provided in Section 6402.5, the part of
34 the intestate estate not passing to the surviving spouse or
35 domestic partner under Section 6401, or the entire
36 intestate estate if there is no surviving spouse or domestic
37 partner, passes as follows:

38 (a) To the issue of the decedent, the issue taking
39 equally if they are all of the same degree of kinship to the



1 decedent, but if of unequal degree those of more remote
2 degree take in the manner provided in Section 240.

3 (b) If there is no surviving issue, to the decedent's
4 parent or parents equally.

5 (c) If there is no surviving issue or parent, to the issue
6 of the parents or either of them, the issue taking equally
7 if they are all of the same degree of kinship to the
8 decedent, but if of unequal degree those of more remote
9 degree take in the manner provided in Section 240.

10 (d) If there is no surviving issue, parent or issue of a
11 parent, but the decedent is survived by one or more
12 grandparents or issue of grandparents, to the
13 grandparent or grandparents equally, or to the issue of
14 those grandparents if there is no surviving grandparent,
15 the issue taking equally if they are all of the same degree
16 of kinship to the decedent, but if of unequal degree those
17 of more remote degree take in the manner provided in
18 Section 240.

19 (e) If there is no surviving issue, parent or issue of a
20 parent, grandparent or issue of a grandparent, but the
21 decedent is survived by the issue of a predeceased spouse,
22 to that issue, the issue taking equally if they are all of the
23 same degree of kinship to the predeceased spouse, but if
24 of unequal degree those of more remote degree take in
25 the manner provided in Section 240.

26 (f) If there is no surviving issue, parent or issue of a
27 parent, grandparent or issue of a grandparent, or issue of
28 a predeceased spouse, but the decedent is survived by
29 next of kin, to the next of kin in equal degree, but where
30 there are two or more collateral kindred in equal degree
31 who claim through different ancestors, those who claim
32 through the nearest ancestor are preferred to those
33 claiming through an ancestor more remote.

34 (g) If there is no surviving next of kin of the decedent
35 and no surviving issue of a predeceased spouse of the
36 decedent, but the decedent is survived by the parents of
37 a predeceased spouse or the issue of those parents, to the
38 parent or parents equally, or to the issue of those parents
39 if both are deceased, the issue taking equally if they are
40 all of the same degree of kinship to the predeceased



1 spouse, but if of unequal degree those of more remote
2 degree take in the manner provided in Section 240.

3 ~~SEC. 5.~~

4 *SEC. 43.* Section 8461 of the Probate Code is amended
5 to read:

6 8461. Subject to the provisions of this article, a person
7 in the following relation to the decedent is entitled to
8 appointment as administrator in the following order of
9 priority:

10 (a) Surviving spouse or domestic partner as defined in
11 Section 37.

12 (b) Children.

13 (c) Grandchildren.

14 (d) Other issue.

15 (e) Parents.

16 (f) Brothers and sisters.

17 (g) Issue of brothers and sisters.

18 (h) Grandparents.

19 (i) Issue of grandparents.

20 (j) Children of a predeceased spouse.

21 (k) Other issue of a predeceased spouse.

22 (l) Other next of kin.

23 (m) Parents of a predeceased spouse.

24 (n) Issue of parents of a predeceased spouse.

25 (o) Conservator or guardian of the estate acting in that
26 capacity at the time of death who has filed a first account
27 and is not acting as conservator or guardian for any other
28 person.

29 (p) Public administrator.

30 (q) Creditors.

31 (r) Any other person.

32 ~~SEC. 6.~~

33 *SEC. 44.* Section 8462 of the Probate Code is amended
34 to read:

35 8462. The surviving spouse or domestic partner of the
36 decedent, a relative of the decedent, or a relative of a
37 predeceased spouse or domestic partner of the decedent,
38 has priority under Section 8461 only if one of the following
39 conditions is satisfied:



1 (a) The surviving spouse, domestic partner, or relative
2 is entitled to succeed to all or part of the estate.

3 (b) The surviving spouse, domestic partner, or
4 relative either takes under the will of, or is entitled to
5 succeed to all or part of the estate of, another deceased
6 person who is entitled to succeed to all or part of the
7 estate of the decedent.

8 ~~SEC. 7.~~

9 *SEC. 45.* Section 8463 of the Probate Code is amended
10 to read:

11 8463. (a) If the surviving spouse is a party to an action
12 for separate maintenance, annulment, or dissolution of
13 the marriage of the decedent and the surviving spouse,
14 and was living apart from the decedent on the date of the
15 decedent's death, the surviving spouse has priority next
16 after brothers and sisters and not the priority prescribed
17 in Section 8461.

18 (b) If the decedent is survived by a domestic partner,
19 who was living apart from the decedent on the date of the
20 decedent's death, to whom the decedent sent by certified
21 mail a written notice of termination of the domestic
22 partnership pursuant to paragraph (1) of subdivision (a)
23 of Section 299 of the Family Code, and the decedent failed
24 to file a Notice of Termination of Domestic Partnership
25 with the Secretary of State as required by subdivision (b)
26 of Section 299 of the Family Code, the surviving domestic
27 partner has priority next after brothers and sisters and not
28 the priority prescribed in Section 8461.

29 ~~SEC. 8.~~

30 *SEC. 46.* Section 8465 of the Probate Code is amended
31 to read:

32 8465. (a) The court may appoint as administrator a
33 person nominated by a person otherwise entitled to
34 appointment or by the guardian or conservator of the
35 estate of a person otherwise entitled to appointment. The
36 nomination shall be made in writing and filed with the
37 court.

38 (b) If a person making a nomination for appointment
39 of an administrator is the surviving spouse or domestic
40 partner, child, grandchild, other issue, parent, brother or



1 sister, or grandparent of the decedent, the nominee has
2 priority next after those in the class of the person making
3 the nomination.

4 (c) If a person making a nomination for appointment
5 of an administrator is other than a person described in
6 subdivision (b), the court in its discretion may appoint
7 either the nominee or a person of a class lower in priority
8 to that of the person making the nomination, but other
9 persons of the class of the person making the nomination
10 have priority over the nominee.

11 *SEC. 47. No reimbursement is required by this act*
12 *pursuant to Section 6 of Article XIII B of the California*
13 *Constitution for certain costs that may be incurred by a*
14 *local agency or school district because in that regard this*
15 *act creates a new crime or infraction, eliminates a crime*
16 *or infraction, or changes the penalty for a crime or*
17 *infraction, within the meaning of Section 17556 of the*
18 *Government Code, or changes the definition of a crime*
19 *within the meaning of Section 6 of Article XIII B of the*
20 *California Constitution.*

21 *However, notwithstanding Section 17610 of the*
22 *Government Code, if the Commission on State Mandates*
23 *determines that this act contains other costs mandated by*
24 *the state, reimbursement to local agencies and school*
25 *districts for those costs shall be made pursuant to Part 7*
26 *(commencing with Section 17500) of Division 4 of Title*
27 *2 of the Government Code. If the statewide cost of the*
28 *claim for reimbursement does not exceed one million*
29 *dollars (\$1,000,000), reimbursement shall be made from*
30 *the State Mandates Claims Fund.*

