

FAMILY CODE - FAM

DIVISION 2.5. DOMESTIC PARTNER REGISTRATION [297 - 299.6]

(Division 2.5 added by Stats. 1999, Ch. 588, Sec. 2.)

PART 1. DEFINITIONS [297 - 297.5]

(Part 1 added by Stats. 1999, Ch. 588, Sec. 2.)

297.

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

(b) A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division, and, at the time of filing, all of the following requirements are met:

(1) Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.

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

(3) Both persons are at least 18 years of age, except as provided in Section 297.1.

(4) Both persons are capable of consenting to the domestic partnership.

(Amended by Stats. 2019, Ch. 135, Sec. 1. (SB 30) Effective January 1, 2020.)

297.1.

(a) A person under 18 years of age who, together with the other proposed domestic partner, otherwise meets the requirements for a domestic partnership other than the requirement of being at least 18 years of age, may establish a domestic partnership upon obtaining a court order granting permission to the underage person or persons to establish a domestic partnership.

(b) (1) The court order and written consent of the parents of each person under 18 years of age or of one of the parents or the guardian of each person under 18 years of age, except as provided in paragraph (2), shall be filed with the clerk of the court, and a certified copy of the order shall be filed with the Secretary of State with the Declaration of Domestic Partnership.

(2) If it appears to the satisfaction of the court by application of a person under 18 years of age that the person requires a written consent to establish a domestic partnership and that the minor has no parent or guardian, or has no parent or guardian capable of consenting, the court may make an order consenting to establishing the domestic partnership. The order shall be filed with the clerk of the court and a certified copy of the order shall be filed with the Secretary of State with the Declaration of Domestic Partnership.

(3) Notwithstanding any other law, immediately after the Secretary of State creates or updates the document described in Section 298.8 using the information required for the document and that is contained in a certified copy of a court order filed with the Secretary of State with the Declaration of Domestic Partnership pursuant to this subdivision, the Secretary of State may dispose of the certified copy of the court order.

(c) In determining whether to issue a court order granting permission to establish a domestic partnership, the court shall do all of the following:

(1) Require Family Court Services to separately interview the parties intending to establish a domestic partnership and, if applicable, at least one of the parents or the guardian of each party who is a minor. If more than one parent or guardian is interviewed, the parents or guardians shall be interviewed separately.

(2) Require Family Court Services to prepare and submit to the court a written report, containing any assessment of potential force, threat, persuasion, fraud, coercion, or duress by either of the parties or their family members relating to

the intended domestic partnership. The report shall also contain recommendations of Family Court Services for either granting or denying the parties permission to establish a domestic partnership. If Family Court Services knows or reasonably suspects that either party is a victim of child abuse or neglect, Family Court Services shall submit a report of the known or suspected child abuse or neglect to the county child protective services agency.

(3) After receiving the report of the assessments of Family Court Services, as described in paragraph (2), separately interview in camera each of the parties prior to making a final determination regarding the court order.

(4) Consider whether there is evidence of coercion or undue influence on the minor.

(d) If the court issues an order granting the parties permission to establish a domestic partnership, and if one or both of the parties are 17 years of age or younger, the parties shall be eligible to file a Declaration of Domestic Partnership with the Secretary of State no earlier than 30 days from the time the court order was issued.

(e) As part of the court order granting permission to establish a domestic partnership, the court shall, if it considers it necessary, require the parties to the prospective domestic partnership of a minor to participate, before the domestic partnership is established, in counseling concerning social, economic, and personal responsibilities incident to the domestic partnership. The parties shall not be required to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of counseling provided by the county or the court. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

(f) (1) Only for purposes of completing the document described in Section 298.8, and not for purposes of making a determination regarding the court order, the gender of each party intending to establish a domestic partnership, if provided, shall be documented on the court order granting permission to establish the domestic partnership.

(2) The date of birth of each party intending to establish a domestic partnership shall also be documented on the court order granting permission to establish the domestic partnership.

(g) Upon issuance of the order granting permission to establish a domestic partnership, the minor shall be provided with the following information:

(1) The rights and responsibilities of an emancipated minor, including, but not limited to, the effects of emancipation as described in Chapter 2 (commencing with Section 7050) of Part 6 of Division 11.

(2) (A) The circumstances under which a domestic partnership may be determined by a court to be void or voidable and adjudged a nullity and the procedure for obtaining that judicial determination.

(B) The procedures for termination of a domestic partnership.

(3) Telephone numbers for the National Domestic Violence Hotline and the National Sexual Assault Hotline.

(4) The conditions under which an unemancipated minor may leave home and seek to remain in a shelter or otherwise live separately from the minor's parent or guardian, and whether the consent or acquiescence of a parent or guardian is required to remain away from the home of the parent or guardian, the rights of an unemancipated minor to apply for a protective or restraining order to prevent abuse, and the rights of a minor to enter into contracts, including contracts for legal services and mental health counseling.

(h) (1) Subdivisions (c) and (d) do not apply to a minor who is 17 years of age and who has achieved a high school diploma or a high school equivalency certificate.

(2) Subdivision (d) does not apply to a minor who is 16 or 17 years of age and who is pregnant or whose prospective domestic partner is pregnant.

(Amended by Stats. 2019, Ch. 135, Sec. 2. (SB 30) Effective January 1, 2020.)

297.5.

(a) Registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses.

(b) Former registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon former spouses.

(c) A surviving registered domestic partner, following the death of the other partner, shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether

they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.

(d) The rights and obligations of registered domestic partners with respect to a child of either of them shall be the same as those of spouses. The rights and obligations of former or surviving registered domestic partners with respect to a child of either of them shall be the same as those of former or surviving spouses.

(e) To the extent that provisions of California law adopt, refer to, or rely upon, provisions of federal law in a way that otherwise would cause registered domestic partners to be treated differently than spouses, registered domestic partners shall be treated by California law as if federal law recognized a domestic partnership in the same manner as California law.

(f) Registered domestic partners shall have the same rights regarding nondiscrimination as those provided to spouses.

(g) No public agency in this state may discriminate against any person or couple on the ground that the person is a registered domestic partner rather than a spouse or that the couple are registered domestic partners rather than spouses, except that nothing in this section applies to modify eligibility for long-term care plans pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2 of the Government Code.

(h) This act does not preclude any state or local agency from exercising its regulatory authority to implement statutes providing rights to, or imposing responsibilities upon, domestic partners.

(i) This section does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative.

(j) Where necessary to implement the rights of registered domestic partners under this act, gender-specific terms referring to spouses shall be construed to include domestic partners.

(k) (1) For purposes of the statutes, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, and benefits, and the responsibilities, obligations, and duties of registered domestic partners in this state, as effectuated by this section, with respect to community property, mutual responsibility for debts to third parties, the right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership, and other rights and duties as between the partners concerning ownership of property, any reference to the date of a marriage shall be deemed to refer to the date of registration of a domestic partnership with the state.

(2) Notwithstanding paragraph (1), for domestic partnerships registered with the state before January 1, 2005, an agreement between the domestic partners that the partners intend to be governed by the requirements set forth in Sections 1600 to 1620, inclusive, and which complies with those sections, except for the agreement's effective date, shall be enforceable as provided by Sections 1600 to 1620, inclusive, if that agreement was fully executed and in force as of June 30, 2005.

(Amended by Stats. 2006, Ch. 802, Sec. 2. Effective January 1, 2007.)