

**CALIFORNIA LEGISLATION 2015 AFFECTING PROBATE ESTATES,
TRUSTS, GUARDIANSHIPS AND CONSERVATORSHIPS**

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I. MEDICAL

AB 68 (Waldron), Medi-Cal

Adds Section 14133.06 to the Welfare and Institutions Code, relating to Medi-Cal

1. Creates the Patient Access to Prescribed Epilepsy Treatments Act, which requires, to the extent permitted by federal law, that any drug in the seizure or epilepsy therapeutic drug class would be a covered benefit under the Medi-Cal program.
2. Requires a Medi-Cal managed care plan to provide coverage for these drugs, regardless of whether the drug is on the plan's formulary, if the treating provider demonstrates that in his or her reasonable, professional judgment, the drug is medically necessary, not on the Medi-Cal managed care plan formulary and consistent with specified federal rules and regulations, under which circumstances the beneficiary would be entitled to an urgent appeal, to be resolved within 24 hours.

Disposition: Vetoed

AB 637(Campos). Physician Orders for Life Sustaining Treatment forms.

Amends Section 4780 of the Probate Code, POLSTs

Authorizes the signature of a nurse practitioner or a physician assistant acting under the supervision of the physician and within the scope of practice authorized by law to create a valid POLST form.

Disposition: Chapter 217, Statutes 2015

AB 1337 (Linder) Medical Records; electronic delivery.

Amends Section 1158 of the Evidence Code, relating to evidence.

1. In the inspection of medical records by an attorney or the attorney's representative, requires a medical provider or employer, or an agent thereof, to provide an electronic copy of a medical record, when an electronic copy is requested, if the medical record exists in digital or electronic format and the medical record can be delivered electronically.

2. Requires a medical provider or employer to accept a prescribed authorization form once completed and signed by the patient, as specified, and would prohibit a medical provider or employer from conditioning treatment, payment, enrollment, or eligibility for benefits on the submission of an authorization for the release of records.

Disposition: Chapter 528, Statutes of 2015

SB 19 (Wolk) POLST Registry

Adds Section 4788 to the Probate Code, relating to resuscitative measures.

1. Enacts the California POLST Registry Act. The bill would require the California Health and Human Services Agency to establish and operate a statewide registry system, to be known as the California POLST Registry, for the purpose of collecting POLST forms received from health care providers (or physician designee).
2. Health care providers who complete a POLST form are required to include the POLST form in the patient's medical record and are required to submit the form to the registry, unless a patient or his or her health care decision maker chooses not to participate in the registry.
3. Requires HSA to disseminate the information in the POLST form to an authorized user and defines "authorized user" to include a health care provider.
4. Requires HSA to adopt rules for, among other things, the operation of the registry, including the means by which POLST forms would be submitted electronically, revised, and revoked, the capability to check the POLST form for accuracy prior to it being made available, the appropriate and timely methods for dissemination of POLST form information, the procedures for verifying the identity of an authorized user, and rules for maintaining the confidentiality of a POLST form received by the registry.
5. Requires that any disclosure of POLST form information in the registry be made in accordance with applicable federal privacy laws.
6. Provides immunity for an authorized user who acts upon information obtained from the registry and acts in good faith.

Disposition: Chapter 504, Statutes of 2015

SB 33 (Hernandez), Medi-Cal Recovery

Amends Section 14009.5 of Welfare and Institutions Code.

1. In place of the current rules governing recovery of Medi-Cal payments, provides that the Department of Health Care Services (department) shall make these claims only in specified circumstances and would define health care services for these purposes.
2. Requires the department to waive its claim where the estate subject to recovery is a homestead of modest value, as defined.
3. Provides that health care services that federal law or guidance authorizes the state to eliminate from recovery shall also be exempted. It also limits any claims against the estate of a decedent to only the real and personal property or other assets the state is required to seek recovery under federal law.
4. Limits the amount of interest that is entitled to accrue on voluntary post-death liens, as specified (maximum of 7%)
5. Deletes proportionate share provision and requirement that the department make a claim upon the death the surviving spouse.
6. Provides in meeting these requirements the department shall only collect amounts identified as being spent by either the department or a Medi-Cal managed care plan for the health services actually received by the decedent, or the per month payment, whichever is less in that month.
7. Requires the department to provide a current or former beneficiary, or his or her authorized representative, upon request, with the total amount of Medi-Cal expenses that have been paid on his or her behalf that would be recoverable under these provisions, as specified.
8. Changes only apply to individuals who die on or after January 1, 2016.

Disposition: Inactive by request of Assembly Member Holden - 2-year bill

SB 128 (Wolk) End of life.

Adds Part 1.85 (commencing with section 443) to Division 1 of the Health and Safety Code.

Would have enacted the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal illness, as defined, to make a request for a drug prescribed

pursuant to these provisions for the purpose of ending his or her life. The bill would have established the procedures for making these requests.

Disposition: Retained in Assembly Health Committee.

Replaced by ABx2 15 Second Extraordinary Session (introduced August 17, 2015), below.

ABx2 15 (Eggman) End of Life

Adds Part 1.85 (commencing with Section 443) to Division 1 of the Health and Safety Code, relating to end of life.

1. Enacts the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for a drug prescribed pursuant to these provisions for the purpose of ending his or her life. Establishes the procedures for making these requests.
2. Establishes the forms to request an aid-in-dying drug and, under specified circumstances, an interpreter declaration to be signed subject to penalty of perjury.
3. Requires specified information to be documented in the individual's medical record, including, among other things, all oral and written requests for an aid-in-dying drug. Written requests at least 15 days apart, with witnesses who are disinterested.
4. Prohibits a provision in a contract, will, or other agreement from being conditioned upon or affected by a person making or rescinding a request for the above-described drug.
5. Prohibits the sale, procurement, or issuance of any life, health, or annuity policy, health care service plan, contract, or health benefit plan, or the rate charged for any policy or plan contract, from being conditioned upon or affected by the request.
6. Prohibits an insurance carrier from providing any information in communications made to an individual about the availability of an aid-in-dying drug absent a request by the individual or his or her attending physician at the behest of the individual. Also prohibits any communication from containing both the denial of treatment and information as to the availability of aid-in-dying drug coverage.
7. Provides immunity from civil, criminal, administrative, employment, or contractual liability or professional disciplinary action for participating in good faith compliance

with the act, and specifies that the immunities and prohibitions on sanctions of a health care provider are solely reserved for conduct provided for by this new law.

8. Makes participation in activities authorized pursuant to its provisions voluntary, and makes health care providers immune from liability for refusing to engage in activities authorized pursuant to its provisions.
9. Authorizes a health care provider to prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under the act while on the premises owned or under the management or direct control of that prohibiting health care provider, or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider. Requires health care providers to not administer the aid-in-dying drugs.
10. Makes it a felony to knowingly alter or forge a request for drugs to end an individual's life without his or her authorization or to conceal or destroy a withdrawal or rescission of a request for a drug, if it is done with the intent or effect of causing the individual's death.
11. Makes it a felony to knowingly coerce or exert undue influence on an individual to request a drug for the purpose of ending his or her life or to destroy a withdrawal or rescission of a request.
12. Provides that nothing in its provisions is to be construed to authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute, among other things, suicide or homicide.
13. Requires physicians to submit specified forms and information to the State Department of Public Health after writing a prescription for an aid-in-dying drug and after the death of an individual who requested an aid-in-dying drug. Requires the Medical Board of California to update those forms on or before January 1, 2019, and the State Department of Public Health to publish the forms on its Internet Web site. Also requires the department to annually review a sample of certain information and records and to make a statistical report of the information collected.
14. Ten-year sunset provision. Allows for legislature to evaluate the effectiveness of the legislation.

Disposition: Chapter 1, Stats Extraordinary Session 2015.

AB 1300 (Ridley-Thomas). Mental health; involuntary commitment

Amends Sections 5001, 5008, 5013, 5150, 5150.05, 5150.1, 5150.2, 5151, 5152.1, 5153, and 5270.50 of, adds Sections 5001.5, 5022, 5023, 5024, 5025, 5026, 5025.1, 5150.3, 5151.1, and 5151.2 to, adds the heading of Article 1.3 (commencing with Section 5151) to, adds Article 1.1 (commencing with Section 5150.10) to, adds Article 1.2 (commencing with Section 5150.30) to, Chapter 2 of Part 1 of Division 5 of, repeals Section 5150.4 of, and repeals and adds Section 5152.2 of, the Welfare and Institutions Code, relating to mental health.

1. Authorizes counties to designate one or more persons to act as a local or regional liaison to assist a person who is a patient in an emergency department of a defined non-designated hospital and who has been detained, or who may require detention, for evaluation and treatment, as specified.
2. Reorganizes and make changes to the provisions relating to the detention for evaluation and treatment of a person who may be subject to the provisions for involuntary medical evaluation, including specifying procedures for delivery of those individuals to various facilities; evaluation of the person for probable cause for detention for evaluation and treatment; terms and length of detention, where appropriate, in various types of facilities; and criteria for release from defined designated facilities and non-designated hospitals.
3. Authorizes a provider of ambulance services to transfer a person who is voluntarily transferring to a designated facility for evaluation and treatment.
4. Makes changes to the methods by which law enforcement is notified of the release of a person detained for evaluation and treatment.
5. Makes changes to immunity provisions.

Disposition: 2-year bill

II. TAXATION

AB 99 (Perea) Mortgage Debt Forgiveness

Amends Section 17144.5 of the Revenue and Taxation Code, relating to taxation and declaring it as urgency legislation.

1. Extends operation of provisions for non-taxation of satisfaction of indebtedness income, so that the provisions applicable through the end of 2013 will remain operative through December 31, 2014.

2. Makes legislative findings and declarations regarding the public purpose served by this legislation and declaring it to be urgency legislation.
3. Continuation of AB 1393 (Perea), Chapter 152, Statutes 2014.

Disposition: Vetoed

AB 571 (Brown); Change of Ownership Statements.

Amends Sections 463 and 483 of the Revenue and Taxation Code.

1. Replaces current provisions for abatement of penalties for failure to file a specified property statement or change in ownership statement.
2. The county board of equalization or the assessment appeals board may abate a penalty for failure to file if the assessee files a timely request for abatement and establishes that the failure to file the property statement or change in ownership statement within the specified time period was due to reasonable cause and circumstances beyond the assessee's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect.

Disposition: Chapter 501, Statutes of 2015

AB 154 (Ting) Taxation; federal conformity

Amends Sections 17024.5, 17053.46, 17053.47, 17053.74, 17088, 17144, 17215, 18155, 19138, 19141.5, 19164, 19167, 19183, 19772, 23622.7, 23622.8, 23646, 23701i, 24307, 24427, 24439, 24870, 24871, and 24990.5 of, adds Sections 17240, 17241, 17323, 19131.5, 24345.5, 24454, and 24459 to, and repeals Sections 17131.7, 17131.12, 17131.14, 17134.1, 17201.1, 17280.1, 17322.1, 24452.1, and 24871.1 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

1. Changes the specified conformity date of various provisions of the Personal Income Tax Law and the Corporation Tax Law referencing Internal Revenue Code sections from January 1, 2009 to January 1, 2015, for taxable years beginning on or after January 1, 2015, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2009, and that have not been, or are not being, excepted or modified.
2. Makes certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and makes specified supplemental, technical, or

clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, or the administration of those laws, with respect to, among other things, tax credits, tax on specified distributions from Archer MSAs, income exclusions, reporting requirements, qualified tuition program investment direction, disclosure of information with respect to foreign financial assets, redemptions by foreign subsidiaries, listed property, extension of time for the payment of taxes, deductions for annual fees on branded prescription pharmaceutical manufacturers and importers, and penalty amounts related to understatements of tax or the failure to file specified returns or include specified information on returns.

3. Specifies various dates on which particular provisions apply and repeals obsolete provisions.
4. Declares that the changes are to take effect immediately as an urgency statute.

Disposition: Chapter 359, Statutes of 2015

III. TRANSFER ON DEATH DEEDS

AB 139 (Gatto) Revocable Transfer on Death Deeds.

Amends Sections 2337 and 2040 of the Family Code, amends Sections 250, 267, 279, 2580, 5000, 5302, 13111, 13206, and 13562 of, amends and renumbers Sections 5600, 5601, 5602, 5603, and 5604 of, adds Section 69 to, adds the heading of Chapter 3 (commencing with Section 5040) to Part 1 of Division 5 of, adds and repeals Part 4 (commencing with Section 5600) of Division 5 of, and repeals the heading of Part 4 (commencing with Section 5600) of Division 5 of, the Probate Code, relating to nonprobate transfers.

1. Existing law provides that a person may pass real property to a beneficiary at death by various methods including by will, intestate succession, trust, and titling the property in joint tenancy, among others.
2. Until January 1, 2021, creates the revocable transfer on death deed (revocable TOD deed), as defined, which would transfer real property on the death of its owner without a probate proceeding.
3. Requires that a person have testamentary capacity to make or revoke the deed and requires that the deed be in a statutory form provided. The revocable TOD deed must be signed, dated, acknowledged, and recorded, as specified, to be effective.

4. Provides, among other things, that the deed, during the owner's life, does not affect his or her ownership rights and, specifically, is part of the owner's estate for the purpose of Medi-Cal eligibility and reimbursement.
5. A revocable TOD deed would be voided, if, at the time of the owner's death, the property is titled in joint tenancy or as community property with right of survivorship.
6. Establishes priorities for creditor claims against the owner and the beneficiary of the deed in connection with the property transferred and limits on the liability of the beneficiary.
7. Establishes a process for contesting the transfer of real property by a revocable TOD deed.
8. Makes conforming and technical changes.
9. Requires the California Law Revision Commission to study and make recommendations regarding the revocable TOD deed to the Legislature by January 1, 2020.
10. Specifies that a person who feloniously and intentionally kills a decedent is not entitled generally to property and interests that are transferred outside of probate, including real property transferred by a revocable TOD deed.
11. Deletes the reference to court judgment for enforcement by creditors for transfers under Section 13206 and provides instead that the personal representative of the estate is permitted to enforce liability only to the extent necessary to protect the heirs, devisees, and creditors of the decedent.
12. Real property revocable deed concept has been before the Legislature repeatedly. The latest version of this proposal was AB 699 (Wagner, 2011) and AB 724 (DeVore, 2010). Earlier versions also include AB 12 (DeVore), Chapter 422, Statutes 2005, requiring a Law Revision Report, which became AB 250 (DeVore, 2007). Except for the authorization of the Law Revision Report, none of the proposals was enacted. Concurrently, similar legislation has been adopted in 13 other states and incorporated into a Uniform Real Property on Death Act (2009) adopted on September 9, 2009 by the National Conference of Commissioners on Uniform State Laws.

Disposition: Chapter 293, Statutes 2015

IV. CONSERVATORSHIPS AND GUARDIANSHIPS

AB 193 (Maienschein) Mental health; conservatorship hearings.

Amends Sections 5350.2, 5352, 5354, and 5360 of the Welfare and Institutions Code, relating to conservatorships.

1. Authorizes the court, after a hearing attended by the proposed conservatee or the proposed conservatee's counsel, or both, to recommend a conservatorship to the officer providing conservatorship investigation if the court, in a conservatorship proceeding, after consultation with the physician providing comprehensive evaluation or intensive treatment, determines, based on the evidence presented to the court, including medical evidence, that a person for whom a conservatorship has been established may be gravely disabled as a result of a mental disorder or impairment by chronic alcoholism and is unwilling to accept, or is incapable of accepting, treatment voluntarily.
2. Requires the court to appoint counsel to a proposed conservatee if he or she cannot afford counsel.
3. Requires the officer providing conservatorship investigation to petition the superior court in the patient's county of residence to establish conservatorship if he or she concurs with the recommendation of the court, and to file a copy of his or her report with the court.
4. Requires an existing probate conservator, if conservatorship is recommended by the court, to disclose any records or information that may facilitate the investigation.
5. Makes conforming changes.

Disposition: Vetoed

AB 436 (Jones) Guardian or conservator; powers and duties.

Amend Section 2356.5 of the Probate Code, relating to protective proceedings.

Requires the court, upon granting or denying placement in a secure residential or nursing facility where the conservatee has to be represented by an attorney pursuant to section 2356, can authorize discharge of the attorney or order continuation of the representation, as specified.

Disposition: Chapter 197, Statutes 2015

SB 269 (Vidak) Conservators; compensation

Adds Section 2640.2 to the Probate Code. Conservator appointments: compensation.

1. Permits a person who successfully petitioned for the appointment of a conservator to petition the probate court for an order fixing and allowing compensation to the person and the person's attorney for services rendered in connection with the appointment of a conservator.
2. State Bar Trusts and Estates Section proposal.

Disposition: 2-year bill

AB 468 (Jones). Wards and conservatees; mental health

Amends Section 2356 of the Probate Code, relating to wards and conservatees

Deletes the requirement that the Director of Health Services adopt and issue regulations defining "mental health treatment facility" for the purpose of determining dementia powers.

Disposition: Chapter 117, Statutes 2015

AB 900 (Levine); juveniles; special immigrant status

Amends Sections 1490, 1600 and 1601 of, and adds Section 1510.1 to, the Probate Code. Juveniles

1. Authorizes a court to appoint a guardian of the person of an unmarried individual who is older than 18 years of age and younger than 21 years of age in connection with a petition to make the necessary findings regarding special immigrant juvenile status, as specified, if the proposed ward consents.
2. Authorize a court to continue a guardianship of the person of a ward beyond 18 years of age, as specified, if the ward consents.
3. Provides that a guardianship of the person terminates after the ward attains majority unless the ward consents to the continuation of the guardianship of the person until he or she is 21 years of age, as specified.
4. Provides that the petition for guardianship may be filed by a relative, the ward or any other person.
5. This procedure is not meant to abrogate any other rights a ward who is 18 or old may have as an adult under California law.

6. Notwithstanding statutes allowing a guardian to fix the legal residence of a ward or consent to medical treatment on behalf of the ward, a ward who is 18 years or older retains all legal decision-making authority as an adult.
7. The court may terminate such a guardianship of a ward who is 18 years or older if the ward requests termination.
8. The Judicial Council is to adopt necessary rules and forms by July 1, 2016.

Disposition: Chapter 694, Statutes of 2015

AB 1085 (Gatto). Personal representatives; conservators and attorneys-in-fact.
Amends Section 2351 of, and adds Sections 2361 and 4691 to, the Probate Code, relating to personal representatives.

1. Provides that a court order may be issued that specifically grants the conservator the power to limit or enforce the conservatee's right to receive visitors, telephone calls, and personal mail. Sets forth findings and declarations of the Legislature.
2. Requires a conservator to provide notice of a conservatee's death by mailing a copy of the notice to specified persons, as provided.
3. Requires an attorney-in-fact, if directed by the principal in a power of attorney for health care, to inform individuals whose names are provided by the principal for that purpose.

Disposition: Chapter 92, Statutes 2015

SB 589 (Block). Conservatorships; Voting
Amends Sections 2102, 2150, 2208, and 2209 of the Elections Code, and amends Sections 1823, 1826, 1828, 1851, and 1910 of the Probate Code, relating voting: individuals with disabilities and conservatees.

1. Authorizes an individual with a disability who is otherwise qualified to vote to complete an affidavit of registration with reasonable accommodations as needed.
2. Authorizes an individual with a disability who is under a conservatorship to be registered to vote if he or she has not been disqualified from voting.
3. Authorizes an affiant who is an individual with a disability to complete the affidavit of registration with reasonable accommodations as needed.

4. Finds and declares that by explicitly adding the concept of reasonable accommodation to state laws on voter qualification, the state would be into compliance with federal standards.
5. Changes the presumptions of capacity a person to vote, regardless of his or her conservatorship status, and requires that a person be deemed mentally incompetent, and therefore disqualified from voting if, during certain proceedings including conservatorship proceedings, the court finds by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process. In certain conservatorship proceedings heard by a jury, requires the jury to unanimously find by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process before the person is disqualified from voting.
6. Requires an order establishing a conservatorship to find by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process before the court is required to forward the order and determination to the county elections official of the person's county of residence.
7. During the yearly or biennial review of certain conservatorships, requires the court investigator to review the person's capability of communicating, with or without reasonable accommodations, a desire to participate in the voting process, and if the conservatee's capability of communicating that desire has changed, would require the court investigator to inform the court and the court to hold a hearing regarding that capability.
8. Requires the court clerk's citation to the proposed conservatee to include a statement that the proposed conservatee may be disqualified from voting if he or she is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process, and a statement that the proposed conservatee will not be disqualified from voting if he or she would also need to complete the affidavit with reasonable accommodations.
9. Requires the court investigator, before the court hearing and as part of periodic reviews after the appointment of a conservator to, among other things, determine whether the proposed conservatee is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process, and may be disqualified from voting.
10. Provides that a conservatee is not disqualified from voting on the basis that he or she would need to complete the affidavit with reasonable accommodations.

11. Makes technical, nonsubstantive changes to these provisions.
12. Clarifies and expands on Chapter 591, Statutes of 2014 (AB 1311)

Disposition: Chapter 418, Statutes of 2015

V. PROBATE

AB 548 (Cristina Garcia) Estates; administrators

Amend and repeal Section 8465 of the Probate Code, relating to estates and trusts.

Deletes the January 1, 2016 date of repeal, and thereby extends indefinitely the authorization of the court to appoint an administrator who is nominated by a person who is not a United States resident.

Disposition: Chapter 54, Statutes 2015

SB 785 (Morrell). Estates and trusts: creditor's claims.

Amends Sections 19000, 19001, 19003, 19006, 19008, 19024, 19025, 19320, 19323, and 19400 of the Probate Code; trusts

Defines terms the terms "probate estate" and "trust estate" for the purposes of the creditor's claims provisions and clarify the uses of the term "estate" in existing law to refer to a probate estate.

Disposition: Chapter 48, Statutes 2015

SB 155 (Hertzberg)

Adds Part 3 (commencing with Section 13750) to Division 8 of the Probate Code, relating to decedent's estates.

1. Establishes a simplified procedures for the distribution of property, real or personal property of any amount or value, devised by a will to the trustee or trustees of a recipient trust, as defined, without procuring letters of administration.
2. Authorizes the trustee or trustees of a recipient trust to file a verified petition setting forth specified facts in the superior court of the county in which the estate of the decedent may be administered, and authorizes the court to issue an order that a particular item or items of property pass without administration and are transferred to the petitioner as trustee or trustees of the recipient trust.

3. Requires attorneys' fees for services performed in connection with these provisions to be determined by a private agreement between the attorney and the client, and specifies that attorneys' fees are not subject to approval by the court.
4. Trusts and Estates Section Proposal

Disposition: Not heard in initial Senate policy committee.

VI. FAMILY LAW

AB 380 (Waldron) Marriage: putative spouses.

Amends Section 2251 of the Family Code

Allows a party who in good faith claims to be a putative spouse to request division of property that would have been community property or quasi-community property if the marriage was valid.

Disposition: Chapter 196, Statutes 2015

VII. NOTARIES

AB 1036 (Quirk). Notaries public; acceptance of identification.

Amends Section 1185 of the Civil Code, relating to notaries public.

1. Makes an inmate identification card that is current or has been issued within 5 years by a sheriff's department, if the inmate is in custody in a local detention facility, an allowable form of identification for a credible witness to prove the identity of an individual who executes a written instrument.
2. This is an addition to the changes made previously for inmate identification.

Disposition: Chapter 42, Statutes 2015

VIII. CORPORATIONS

AB 506 (Maienschein) Limited Liability Companies

Amends Sections 15902.01, 17701.02, 17701.10, 17701.12, 17701.13, 17704.01, 17704.04, 17704.07, 17704.08, 17704.09, 17704.10, 17705.02, 17706.03, 17707.01, 17707.03, 17707.09, 17708.07, 17710.03, 17710.06, 17710.12, 17713.04, and 17713.12 of the Corporations Code, relating to business.

1. Specifies that upon dissociation a person's right to vote as a member in the management and conduct of the limited liability company's activities terminates.
2. Authorizes, if a member dies or a guardian or general conservator is appointed for the member, the member's executor, administrator, guardian, conservator, or other legal representative to exercise all of the member's rights for the purpose of settling the member's estate or administering the member's property, including any power the member had under the articles of organization or an operating agreement to give a transferee the right to become a member.
3. Modifies the definition of "electronic transmission by the limited liability company" and would expand the definition of "person" under the act.
4. Modifies what an operating agreement may provide, as specified.
5. Provides that specified provisions of the Labor Code, relating to consideration for employment and employment contracts, shall not apply to membership interests issued by any limited liability company or foreign limited liability company, as specified.
6. In addition to requirements that precede dissolution and winding up be among members in accordance with the operating agreement, would also require that the profits and losses of a limited liability company be allocated among the members, and among classes of members, in the manner provided in the operating agreement, and requires that profits and losses be allocated in proportion to the value of the contributions from each member if the operating agreement does not otherwise provide.
7. Eliminates the requirement that the consent of all members of the limited liability company to approve a merger or conversion and to amend the operating agreement.
8. Requires a limited liability company to indemnify the agent of a limited liability company to the extent that the agent has been successful on the merits in defense or settlement of any claim, issue, or matter if the agent acted in good faith and in a manner that the agent reasonably believed to be in the best interests of the limited liability company and its members, as provided.
9. Limits the applicability of the act to acts or transactions existing on or after January 1, 2014, or by members or managers of limited liability companies existing on or before that date, as provided.

10. Modifies provisions for formation to provide that a limited partnership is formed when the Secretary of State files the certificate of limited partnership and when the partners enter into a partnership agreement.

Disposition: Chapter 775, Statutes of 2015

AB 792 (Chiu) Investments

Amends Sections 5240 and 9250 of the Corporations Code, relating to corporations. Board of directors: investment standards.

Modifies the proscribed investment standard in the Nonprofit Public Benefit Corporation Law and the Nonprofit Religious Corporation Law to include the Uniform Prudent Management of Institutional Funds Act, if that act would be applicable.

Disposition: Chapter 56, Statutes 2015

IX. MISCELLANEOUS

SB 383 (Wieckowski). Civil actions: objections to pleadings

Amends Section 430.30 of the Code of Civil Procedure, relating to civil procedure.

1. Requires a party to meet and confer with an opposing party, as specified, before filing a demurrer.
2. Permits a party who is unable to fulfill this requirement to file a declaration with the court evidencing his or her good faith attempt to meet and confer, and it would require the court, upon receipt of a timely declaration demonstrating good cause, to grant a 30-day extension to the filing party to file a responsive pleading.
3. Permits a court to grant an additional extension of time upon a showing of good cause.

Disposition: Chapter 736, Statutes of 2015

AB 355 (Eduardo Garcia) Unclaimed property: safe deposit boxes.

Amends Section 1530 of the Code of Civil Procedure.

In addition to the requirements under current law, business associations are required to include in its report to the Controller any name attached to a United States savings bond or military award inside a safe deposit box or other safekeeping repository that is different from the name of the owner.

Disposition: Chapter 297, Statutes 2015

SB 161 (Vidak). Uniform Fraudulent Transfer Act (Uniform Voidable Transactions Act).

Amends Sections 3439, 3439.01, 3439.02, 3439.04, 3439.05, 3439.06, 3439.07, 3439.08, 3439.09, 3446, and 3447 of, amends the heading of Chapter 1 (commencing with Section 3439) of Title 2 of Part 2 of Division 4 of, amends the heading of Chapter 3 (commencing with Section 3445) of Title 2 of Part 2 of Division 4 of, amends the heading of Title 2 (commencing with Section 3439) of Part 2 of Division 4 of, to amend and renumbers Sections 3430.11 and 3439.12 of, and amends, renumbers and adds Section 3439.10 of, the Civil Code, amends Sections 5420, 7420, 15905.02, 15911.27, 17704.03, 17711.08, and 18640 of the Corporations Code, amends Sections 283 and 9653 of the Probate Code, and amends Section 2104 of the Public Utilities Code, relating to civil law.

1. Renames the Uniform Fraudulent Transfer Act as the Uniform Voidable Transactions Act and revises the act to adopt certain provisions proposed by the 2014 Uniform Voidable Transactions Act, which is based upon the Uniform Fraudulent Transfer Act, both of which were promulgated by the Uniform Law Commission.
2. Specifies the burden of proof in making and defending a claim for relief and the basis for determining the governing law for a claim for relief.
3. Modifies definitions applicable to the act, removes a definition of insolvency relating to a partnership debtor, and adds new definitions, including, but not limited to, definitions of "record" and "sign."
4. Replaces the term "fraudulent" with the term "voidable," as specified.
5. Limits the applicability of the modifications to the act proposed by this bill to a right of action that accrued, transfer made, or obligation incurred on or after the effective date of the act.
6. Revises cross-references to the act and makes conforming changes to related provisions.
7. See, Yeretian, Brian, "Guidance on the Uniform Voidable Transactions Act," *Los Angeles Lawyer* (July-August, 2015), pp. 16-18

Disposition: Chapter 44, Statutes 2015

AB 691 (Calderon) Privacy Expectation After Life and Choices Act (PEAC)

Adds Part 20 (commencing with Section 870) to Division 2 of the Probate Code, relating to estates.

1. Establishes the Privacy Expectation Afterlife and Choices Act, which provides procedures for disclosure of records or other information about an account and which, with a probate court order under limited circumstances, allows disclosure of the contents of communications or stored contents to executor, administrator or trustee. This is the industry alternative to the Uniform Act adopted by the Commission in 2014.
2. If the contents are requested, a probate court is to make specified findings in order to require this disclosure, including a good faith belief that account records are relevant to resolve issues regarding fiscal assets of the estate.
3. Allows, upon request, but does not require the storage provider to disclose this information without a court order, based on an application including specified representations.
4. Allows a provider to require the requester to pay the direct costs of producing a copy of the record or other information pertaining to the account of the deceased, when those records are not already available for production during the ordinary course of business.
5. Exempts the provider from disclosure if the deceased user expressed a different intent through either deletion of the records or contents during the user's lifetime, or affirmatively indicating, through a setting within the product or service, how the user's records or the content of communications can be treated after a set period of inactivity or other event.
6. Exempts the provider from civil liability for compliance in good faith with a court order issued pursuant to this act.

Disposition: 2-yr bill (inactive per Senator Mitchell)

SB 196 (Hancock)

Amends, repeals and add Sections 15610.07 and 15657.03 of the Welfare and Institutions Code, relating to elder abuse: protective orders.

1. Commencing July 1, 2016, in addition to a conservator or trustee, an attorney-in-fact, a person appointed as a guardian ad litem, or other person legally authorized to seek a protective order, a county adult protective services agency is authorized to file a petition for a protective order on behalf of an elder or dependent adult if the elder or dependent adult has suffered abuse and has an impaired ability to understand the circumstances that place him at risk of harm, or who has authorized the adult protective agency to act on his behalf.

2. The adult protective agency is required to assist the elder or dependent adult in attending and participating at court hearings.
3. Recasts and clarifies the definition of "abuse of an elder or dependent adult."

Disposition: Chapter 285, Statutes 2015

AB 731 (Gallagher) Code Maintenance

This legislation is the annual code maintenance, extending over 970 pages and amending a multitude of statutes. A list of affected code sections runs four pages, single spaced.

The only portions of interest for us are the repealer of the heading of Part 14 (commencing with Section 900) of Division 2 of, and the repealer of the heading of Article 1 (commencing with Section 7200) of Chapter 3 of Part 1 of Division 7 of the Probate Code.

Disposition: Chapter 303, Statutes 2015

Outline (v6).wpd