

AMENDED IN ASSEMBLY AUGUST 22, 2011

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JUNE 16, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 647

**Introduced by Committee on Judiciary (Senators Evans (Chair),
Blakeslee, Corbett, Harman, and Leno)**

February 18, 2011

An act to amend Sections 116.780, 116.820, 700.160, 2029.610, and 2029.620 of the Code of Civil Procedure, to amend Section 14502 of the Corporations Code, to amend Section 915.2 of the Government Code, to amend Section 7100 of the Health and Safety Code, to amend Sections 259, 2583, and 8250 of the Probate Code, to amend Section 19280 of the Revenue and Taxation Code, and to amend Section 903.47 of the Welfare and Institutions Code, relating to civil law.

LEGISLATIVE COUNSEL'S DIGEST

SB 647, as amended, Committee on Judiciary. Civil law: omnibus bill.

(1) Existing law, the Small Claims Act, governs the procedures in small claims court. The act provides that the judgment of the superior court of a small claims appeal is final, and specifies the procedures for the enforcement of judgments.

Existing law provides that a deposit account or safe-deposit account standing in the name of a person other than a judgment debtor is not subject to levy unless authorized by the court.

This bill would make technical changes to those provisions and would delete erroneous cross-references.

(2) Existing law establishes a process for obtaining a subpoena in connection with an out-of-state proceeding.

This bill would require additional information to be included in specified documents filed pursuant to those provisions.

(3) Existing law requires a humane society or a society for the prevention of cruelty to animals seeking confirmation of a humane officer's appointment to file with the superior court in which the principal office of the humane society is located a Petition for Order Confirming Appointment of a Humane Officer. Before filing that petition, the organization is required to serve a copy of the petition on specified parties, including the local police and sheriff's departments.

This bill would instead require the serving of the petition to occur upon filing of the petition. The bill would also require the petition to be served on an animal control agency having jurisdiction in the city in which the principal office of the appointing society is located.

(4) Existing law prescribes the manner in which a specified notice, claim, amendment to a claim, or application to a public entity for leave to present a late claim is to be sent by mail. Existing law extends any period of notice and any duty to respond upon service by mail, as specified.

This bill would specify that the extension does not apply to a written notice set forth in a specified provision of law or the filing of a complaint after denial of a claim.

(5) Under existing law, if a decedent has not otherwise given directions, the right to control the disposition of the remains of the deceased person vests in listed persons in a specified order.

This bill would include in that list a conservator of the person or estate appointed in accordance with specified provisions when the decedent has sufficient assets.

(6) Existing law imposes restrictions upon a person's or beneficiary's entitlement to the estate of a decedent who was an elder or dependent adult, if the person or beneficiary has committed certain acts against the decedent, including, but not limited to, physical abuse, neglect, or financial abuse.

This bill would make technical, nonsubstantive changes to those provisions.

(7) Existing law establishes the procedure for the issuance and service of a summons, and authorizes a plaintiff to have a clerk issue one or more summons for any defendant.

This bill would provide that the provisions that authorize a clerk to issue a summons are applicable when a person files an objection to the probate of a will.

(8) Existing law authorizes delinquent fines, state or local penalties, forfeitures, restitution fines and orders, and any other amounts imposed by a superior court upon a person or entity for criminal offenses, that total at least \$100 in the aggregate, to be referred by the court, county, or state to the Franchise Tax Board for collection, as specified.

This bill would additionally allow specified legal costs relating to an order of a juvenile court to be referred to the Franchise Tax Board for collection.

(9) Existing law requires the Judicial Council to adopt policies and procedures allowing a court to recover from the money collected the costs associated with collecting delinquent reimbursements.

This bill would instead require the Judicial Council to adopt policies and procedures allowing a court to recover from the money collected the costs associated with implementing the reimbursements program.

(10) This bill would incorporate additional changes in Section 7100 of the Health and Safety Code proposed by AB 905, to be operative only if AB 905 and this bill are both enacted and become effective on or before January 1, 2012, and this bill is enacted last.

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

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

- 1 SECTION 1. Section 116.780 of the Code of Civil Procedure
- 2 is amended to read:
- 3 116.780. (a) The judgment of the superior court after a hearing
- 4 on appeal is final and not appealable.
- 5 (b) Article 6 (commencing with Section 116.610) on judgments
- 6 of the small claims court applies to judgments of the superior court
- 7 after a hearing on appeal, except as provided in subdivision (c).
- 8 (c) For good cause and where necessary to achieve substantial
- 9 justice between the parties, the superior court may award a party

1 to an appeal reimbursement of (1) attorney’s fees actually and
 2 reasonably incurred in connection with the appeal, not exceeding
 3 one hundred fifty dollars (\$150), and (2) actual loss of earnings
 4 and expenses of transportation and lodging actually and reasonably
 5 incurred in connection with the appeal, not exceeding one hundred
 6 fifty dollars (\$150).

7 SEC. 2. Section 116.820 of the Code of Civil Procedure is
 8 amended to read:

9 116.820. (a) The judgment of a small claims court, or the
 10 judgment of the superior court after a hearing on appeal, may be
 11 enforced by the small claims court as provided in Title 9
 12 (commencing with Section 680.010) of Part 2 and in Sections 674
 13 and 1174 on the enforcement of judgments of other courts.

14 (b) The clerk of the court shall charge and collect all fees
 15 associated with the enforcement of judgments under Title 9
 16 (commencing with Section 680.010) of Part 2. The clerk shall
 17 immediately deposit all the fees collected under this section into
 18 a bank account established for this purpose by the Administrative
 19 Office of the Courts. The money shall be remitted to the State
 20 Treasury under rules adopted by, or trial court financial policies
 21 and procedures authorized by, the Judicial Council under
 22 subdivision (a) of Section 77206 of the Government Code. The
 23 Controller shall distribute the fees to the Trial Court Trust Fund
 24 as provided in Section 68085.1 of the Government Code.

25 (c) The prevailing party in any action subject to this chapter is
 26 entitled to the costs of enforcing the judgment and accrued interest.

27 SEC. 3. Section 700.160 of the Code of Civil Procedure is
 28 amended to read:

29 700.160. (a) Except as provided in subdivision (b), a deposit
 30 account or safe-deposit box standing in the name of a person other
 31 than the judgment debtor, either alone or together with other third
 32 persons, is not subject to levy under Section 700.140 or 700.150
 33 unless the levy is authorized by court order. The levying officer
 34 shall serve a copy of the court order on the third person at the time
 35 the copy of the writ of execution and the notice of levy are served
 36 on the third person.

37 (b) A court order is not required as a prerequisite to levy on a
 38 deposit account or safe-deposit box standing in the name of any
 39 of the following:

1 (1) The judgment debtor, whether alone or together with third
2 persons.

3 (2) The judgment debtor's spouse, whether alone or together
4 with other third persons. An affidavit showing that the person in
5 whose name the account stands is the judgment debtor's spouse
6 shall be delivered to the financial institution at the time of levy.

7 (3) A fictitious business name if an unexpired fictitious business
8 name statement filed pursuant to Chapter 5 (commencing with
9 Section 17900) of Part 3 of Division 7 of the Business and
10 Professions Code lists as the persons doing business under the
11 fictitious business name either (A) the judgment debtor or (B) the
12 judgment debtor's spouse or (C) the judgment debtor and the
13 judgment debtor's spouse, but does not list any other person. A
14 copy of a fictitious business name statement, certified as provided
15 in Section 17926 of the Business and Professions Code, that
16 satisfies these requirements shall be delivered to the financial
17 institution at the time of levy, and if a person other than the
18 judgment debtor is listed in the statement, an affidavit showing
19 that the other person is the judgment debtor's spouse shall also be
20 delivered to the financial institution at the time of levy.

21 (4) The additional name of a judgment debtor listed on the writ
22 of execution pursuant to an affidavit of identity as provided by
23 Section 680.135, whether alone or together with third persons.

24 (c) In any case where a deposit account in the name of a person
25 other than the judgment debtor, whether alone or together with the
26 judgment debtor, is levied upon, the financial institution shall not
27 pay to the levying officer the amount levied upon until being
28 notified to do so by the levying officer. The levying officer may
29 not require the financial institution to pay the amount levied upon
30 until the expiration of 15 days after service of notice of levy on
31 the third person.

32 SEC. 4. Section 2029.610 of the Code of Civil Procedure is
33 amended to read:

34 2029.610. (a) On filing a petition under Section 2029.600, a
35 petitioner who is a party to the out-of-state proceeding shall pay
36 a first appearance fee as specified in Section 70611 of the
37 Government Code. A petitioner who is not a party to the
38 out-of-state proceeding shall pay the fee specified in subdivision
39 (c) of Section 70626 of the Government Code.

1 (b) The court in which the petition is filed shall assign it a case
2 number.

3 (c) On responding to a petition under Section 2029.600, a party
4 to the out-of-state proceeding shall pay a first appearance fee as
5 specified in Section 70612 of the Government Code. A person
6 who is not a party to the out-of-state proceeding may file a response
7 without paying a fee.

8 (d) Any petition, response, or other document filed under this
9 section shall satisfy all of the following conditions:

10 (1) It shall bear the caption and case number of the out-of-state
11 case to which it relates.

12 (2) The first page shall state the name of the court in which the
13 document is filed.

14 (3) The first page shall state the case number assigned by the
15 court under subdivision (b).

16 (4) The first page shall state whether or not the person filing
17 the document is a party to the out-of-state case.

18 SEC. 5. Section 2029.620 of the Code of Civil Procedure is
19 amended to read:

20 2029.620. (a) If a petition has been filed under Section
21 2029.600 and another dispute later arises relating to discovery
22 being conducted in the same county for purposes of the same
23 out-of-state proceeding, the deponent or other disputant may file
24 a petition for appropriate relief in the same superior court as the
25 previous petition.

26 (b) The first page of the petition shall clearly indicate that it is
27 not the first petition filed in that court that relates to the out-of-state
28 case.

29 (c) (1) If the petitioner in the new dispute is a party to the
30 out-of-state case who previously paid a first appearance fee under
31 this article, the petitioner shall pay a motion fee as specified in
32 subdivision (a) of Section 70617 of the Government Code. If the
33 petitioner in the new dispute is a party to the out-of-state case but
34 has not previously paid a first appearance fee under this article,
35 the petitioner shall pay a first appearance fee as specified in Section
36 70611 of the Government Code.

37 (2) If the petitioner in the new dispute is not a party to the
38 out-of-state case, the petitioner shall pay the fee specified in
39 subdivision (c) of Section 70626 of the Government Code, unless
40 the petitioner previously paid that fee. If the petitioner previously

1 paid the fee specified in subdivision (c) of Section 70626 of the
2 Government Code, the petitioner shall pay a motion fee as specified
3 in subdivision (a) of Section 70617 of the Government Code.

4 (d) If a person responding to the new petition is not a party to
5 the out-of-state case, or is a party who previously paid a first
6 appearance fee under this article, that person does not have to pay
7 a fee for responding. If a person responding to the new petition is
8 a party to the out-of-state case but has not previously paid a first
9 appearance fee under this article, that person shall pay a first
10 appearance fee as specified in Section 70612 of the Government
11 Code.

12 (e) Any petition, response, or other document filed under this
13 section shall satisfy all of the following conditions:

14 (1) It shall bear the caption and case number of the out-of-state
15 case to which it relates.

16 (2) The first page shall state the name of the court in which the
17 document is filed.

18 (3) The first page shall state the same case number that the court
19 assigned to the first petition relating to the out-of-state case.

20 (4) The first page shall state whether or not the person filing
21 the document is a party to the out-of-state case.

22 (f) A petition for relief pursuant to this section shall be
23 accompanied by a civil case cover sheet.

24 SEC. 6. Section 14502 of the Corporations Code is amended
25 to read:

26 14502. (a) (1) (A) (i) On and after July 1, 1996, no entity,
27 other than a humane society or society for the prevention of cruelty
28 to animals, shall be eligible to petition for confirmation of an
29 appointment of any individual as a humane officer, the duty of
30 which shall be the enforcement of the laws for the prevention of
31 cruelty to animals.

32 (ii) On and after July 1, 1996, only a person who meets the
33 requirements of this section may be appointed as, or perform the
34 duties of, a humane officer.

35 (iii) Any person appointed as a humane officer prior to July 1,
36 1996, may continue to serve as a humane officer until the expiration
37 of the term of appointment only if the appointing society maintains
38 records pursuant to subparagraph (B) documenting that both the
39 appointing society and the humane officer meet the requirements
40 of this section.

1 (B) Each humane society or society for the prevention of cruelty
2 to animals for which an individual is acting as a humane officer
3 shall maintain complete and accurate records documenting that
4 the individual has successfully completed all requirements
5 established in this section and shall make those records available,
6 upon request, to the superior court, the Attorney General, or any
7 entity duly authorized to review that information, including the
8 State Humane Association of California. The records shall include
9 the full name and address of each humane officer.

10 (2) The humane society or society for the prevention of cruelty
11 to animals shall possess insurance of at least one million dollars
12 (\$1,000,000) for liability for bodily injury or property damage.

13 (3) Each appointment of a humane officer shall be by separate
14 resolution by the board of directors or trustees of the humane
15 society or society for the prevention of cruelty to animals duly
16 entered in its minutes. The resolution shall state the full name and
17 address of the principal office of the appointing society, the full
18 name of the person so appointed, the fact that he or she is a citizen
19 of the State of California, that he or she has met the training
20 requirements set forth in subdivision (h), and whether he or she is
21 authorized to carry a weapon pursuant to this section. The
22 resolution shall also designate the number of the badge to be
23 allotted to the officer, and the date on which the term of office
24 shall expire.

25 (b) A humane society or a society for the prevention of cruelty
26 to animals seeking confirmation of a humane officer's appointment
27 shall comply with each of the following provisions:

28 (1) Prior to filing a Petition for Order Confirming Appointment
29 of a Humane Officer under paragraph (3), the humane society or
30 society for the prevention of cruelty to animals shall submit to the
31 Department of Justice fingerprint images and related information
32 of all humane officer applicants for the purposes of obtaining
33 information as to the existence and content of a record of state
34 convictions and state arrests and also information as to the
35 existence and content of a record of state arrests for which the
36 Department of Justice establishes that the person is free on bail or
37 on his or her own recognizance pending trial or appeal.

38 (A) The Department of Justice shall provide a state response to
39 the humane society or society for the prevention of cruelty to

1 animals pursuant to paragraph (1) of subdivision (p) of Section
2 11105 of the Penal Code.

3 (B) The humane society or society for the prevention of cruelty
4 to animals shall request from the Department of Justice subsequent
5 arrest notification service, as provided pursuant to Section 11105.2
6 of the Penal Code, for persons whose appointments are confirmed
7 as described in subdivision (c).

8 (C) The Department of Justice shall charge a fee sufficient to
9 cover the cost of processing the request described in this paragraph.

10 (2) When filing a Petition for Order Confirming Appointment
11 of a Humane Officer under paragraph (3), the humane society or
12 society for the prevention of cruelty to animals shall serve a copy
13 of the petition on each of the following:

14 (A) The police department having jurisdiction in the city in
15 which the principal office of the appointing society is located.

16 (B) The sheriff's department having jurisdiction in the county
17 in which the principal office of the appointing society is located.

18 (C) The Department of the California Highway Patrol.

19 (D) The State Humane Association of California.

20 (E) The animal control agency having jurisdiction in the city in
21 which the principal office of the appointing society is located. If
22 the sheriff's department or police department entitled to notice
23 under subparagraph (A) or (B) provides animal control services
24 for the city in which the principal office of the appointing society
25 is located, no separate notice is required under this subparagraph.

26 (F) The Department of Justice.

27 (3) The humane society or society for the prevention of cruelty
28 to animals shall file with the superior court in and for the county
29 or city and county in which the principal office of the humane
30 society is located a Petition for Order Confirming Appointment
31 of a Humane Officer, and shall attach to the petition all of the
32 following:

33 (A) A copy of the resolution appointing the person, duly certified
34 to be correct by the president and secretary of the society and
35 attested by its seal.

36 (B) A copy of the criminal record offender information, if any,
37 obtained regarding the person pursuant to paragraph (1).

38 (C) Proof of the society's proper incorporation in compliance
39 with Part 9 (commencing with Section 10400) of Division 2,

1 including the date the articles of incorporation were filed with the
2 Secretary of State.

3 (D) A copy of the society's liability insurance policy for bodily
4 injury or property damage in the amount of at least one million
5 dollars (\$1,000,000).

6 (E) Documentation establishing that the appointee has
7 satisfactorily completed the training requirements set forth in this
8 section.

9 (F) Documentation establishing that the society has a written
10 agreement with another entity, such as a public or private animal
11 shelter or licensed veterinary clinic, that (i) provides for the humane
12 care and treatment of any animals seized by the society, (ii) is
13 capable of preserving evidence that may be used to prosecute an
14 animal cruelty case, and (iii) is compliant with all applicable
15 federal, state, and local laws, including licensing laws.
16 Alternatively, the society may provide documentation that it is
17 operating its own animal shelter that meets the requirements of
18 clauses (i), (ii), and (iii).

19 (G) If the society has not previously appointed a humane officer:

20 (i) An affidavit signed under penalty of perjury from the
21 president of the society that demonstrates the society's competence
22 to appoint a humane officer by providing information, including,
23 but not limited to, the following:

24 (I) Partnerships or collaborations, if any, with other nonprofit
25 or community agencies.

26 (II) Cash reserve on hand, if any, to pay for veterinary expenses,
27 housing, food, and care of seized animals.

28 (III) Established donor base, if any.

29 (IV) Current or prior law enforcement, legal, or other relevant
30 experience, if any, of persons who will supervise the appointee.

31 (V) Current or prior experience of managers, if any, in operating
32 a society or other nonprofit organization.

33 (VI) Statement that each board member is in good standing in
34 the community and has not been convicted of a misdemeanor or
35 felony involving animals.

36 (VII) Ongoing training beyond the minimum required for
37 appointment of the humane officer, if any.

38 (VIII) The need for a humane officer in the society's county.

39 (IX) Any other documentation demonstrating compliance with
40 applicable federal, state, or local laws.

1 (ii) Affidavits, if any, from personnel of local animal control
2 agencies, law enforcement agencies, or other societies pertaining
3 to the appointee's fitness to act as a humane officer.

4 (H) As the last page, proof of service of a copy of the petition
5 upon those parties required to be served.

6 (4) Any party described in paragraph (2) may file an opposition
7 to the petition described in paragraph (3). All papers filed in
8 opposition to the petition and in reply to the opposition shall
9 conform to law and motion pleading requirements, pursuant to
10 Rule 3.1113(d) of the California Rules of Court. An opposition
11 shall not exceed 15 pages and a reply shall not exceed 10 pages,
12 excluding exhibits and declarations. The opposition shall be limited
13 to the competency of the society to appoint and supervise a humane
14 officer and the qualifications, background, and fitness of the
15 appointee that are specific to the work of a humane officer.

16 (A) Any opposition shall be filed no later than 15 court days
17 after the petition is filed with the court. Any opposition shall be
18 served on all parties indicated on the proof of service attached to
19 the petition.

20 (B) The petitioner's reply, if any, to the opposition shall be filed
21 within 10 court days after service of the opposition. The reply shall
22 be served on all parties listed in the proof of service attached to
23 the petition and to any other person who has filed an opposition.

24 (C) The court shall rule on the petition without a hearing unless
25 the court notifies the parties of an intention to hold a hearing.

26 (D) The petitioner shall serve a certified copy of the court's
27 order ruling on the petition on all parties listed in the proof of
28 service attached to the petition and to any other person or entity
29 who has filed an opposition.

30 (c) (1) Upon receipt of the Petition for Order Confirming
31 Appointment of a Humane Officer, the court shall first determine
32 the society's date of incorporation, and the length of time between
33 the date the society filed its articles of incorporation with the
34 Secretary of State and the date it filed the petition described in
35 paragraph (3) of subdivision (b) with the court. If the society was
36 incorporated on or after January 1, 2011, then the following shall
37 apply:

38 (A) For a petition to confirm appointment of a level 1 humane
39 officer, the court shall issue an order denying confirmation of the
40 appointment if a minimum of five years has not elapsed from the

1 date the society filed its articles of incorporation with the Secretary
2 of State to the date it filed the petition.

3 (B) For a petition to confirm appointment of a level 2 humane
4 officer, the court shall issue an order denying confirmation of the
5 appointment if a minimum of one year has not elapsed from the
6 date the society filed its articles of incorporation with the Secretary
7 of State to the date it filed the petition.

8 (C) For a petition to confirm appointment of either a level 1 or
9 level 2 humane officer, the court shall issue an order denying
10 confirmation of the appointment if the society has not established,
11 through submission of appropriate documentation, that the society
12 is either operating its own animal shelter or has a written agreement
13 with another entity, in compliance with subparagraph (F) of
14 paragraph (3) of subdivision (b).

15 (2) If the court has not issued an order denying the petition
16 pursuant to paragraph (1), then the court shall review the matter
17 of the appointee's qualifications and fitness to act as a humane
18 officer. The court shall also consider any documentation it has
19 received in support of, or in opposition to, the confirmation of the
20 person's appointment. If the court finds that the appointee is
21 qualified and fit to act as a humane officer, the court shall issue
22 an order confirming the appointment. The society shall thereupon
23 file a certified copy of the court order in the office of the county
24 clerk of the county or city and county in which the court is located.
25 The appointee shall, at the same time, take and subscribe the oath
26 of office prescribed for constables or other peace officers. The
27 society shall also provide a copy of the Order Confirming
28 Appointment to the State Humane Association of California and
29 the Department of Justice. The Department of Justice may charge
30 a reasonable fee sufficient to cover the costs of maintaining records
31 of Orders Confirming Appointment. If the court does not find the
32 appointee qualified and fit to act as a humane officer, the court
33 shall issue an order denying confirmation of the appointment.

34 (d) If the court grants the petition, the county clerk shall
35 immediately enter in a book to be kept in his or her office and
36 designated "Record of Humane Officers" the name of the officer,
37 the name of the society appointing him or her, the number of his
38 or her badge, the date of the filing, and the case number of the
39 court order confirming the appointment. At the time of the filing,
40 the county clerk shall collect from the society a fee of five dollars

1 (\$5), which shall be full payment for all services to be performed
2 by the county clerk under this section.

3 (e) All appointments of humane officers shall automatically
4 expire if the society disbands or legally dissolves.

5 (f) (1) The society appointing an officer may revoke an
6 appointment at any time by filing in the office of the county clerk
7 in which the appointment of the officer is recorded a copy of the
8 revocation in writing under the letterhead of the society and duly
9 certified by its executive officer. Upon the filing the county clerk
10 shall enter the fact of the revocation and the date of the filing
11 thereof opposite the name of the officer in the record of humane
12 officers.

13 (2) Notwithstanding paragraph (1), any duly authorized sheriff
14 or local police agency or the State Humane Association of
15 California may initiate a revocation hearing by filing a petition to
16 Revoke Appointment of a Humane Officer. The petition shall show
17 cause why an appointment should be revoked and shall be made
18 to the superior court in the jurisdiction of the appointment. Filing,
19 service, and format of the petition and any oppositions and reply
20 papers shall conform to the law and motion requirements under
21 the Code of Civil Procedure, California Rules of Court, and this
22 code. A proceeding pursuant to this paragraph shall be a special
23 proceeding within the meaning of Section 23 of the Code of Civil
24 Procedure.

25 (A) Notice of the hearing date and a copy of the petition shall
26 be served in the same manner as a summons upon the humane
27 officer subject to the petition, the society that appointed the officer,
28 the agencies and association described in paragraph (2) of
29 subdivision (b); except the party filing the petition shall not be
30 required to serve copies of those documents upon itself.

31 (B) Upon a finding of good cause, the court shall issue an order
32 granting the petition to revoke the appointment. The county clerk
33 shall immediately enter the revocation and the date of the court
34 order opposite the name of the officer in the record of humane
35 officers. The clerk of the superior court shall give notice of the
36 order to the parties described in subparagraph (A) and to the county
37 clerk-recorder.

38 (g) The society appointing the humane officer shall pay the
39 training expenses of the humane officer attending the training
40 required pursuant to this section.

1 (h) (1) (A) A level 1 humane officer is not a peace officer, but
2 may exercise the powers of a peace officer at all places within the
3 state in order to prevent the perpetration of any act of cruelty upon
4 any animal and to that end may summon to his or her aid any
5 bystander. A level 1 humane officer may use reasonable force
6 necessary to prevent the perpetration of any act of cruelty upon
7 any animal.

8 (B) A level 1 humane officer may make arrests for the violation
9 of any penal law of this state relating to or affecting animals in the
10 same manner as any peace officer and may serve search warrants.

11 (C) A level 1 humane officer is authorized to carry firearms
12 while exercising the duties of a humane officer, upon satisfactory
13 completion of the training specified in subparagraph (D), if the
14 requirements in subparagraph (F) are met.

15 (D) A level 1 humane officer shall, prior to appointment,
16 provide evidence satisfactory to the appointing society that he or
17 she has successfully completed the following requirements:

18 (i) At least 20 hours of a course of training in animal care
19 sponsored or provided by an accredited postsecondary institution
20 or any other provider approved by the California Veterinary
21 Medical Association the focus of which shall be the identification
22 of disease, injury, and neglect in domestic animals and livestock.

23 (ii) At least 40 hours of a course of training in the state humane
24 laws relating to the powers and duties of a humane officer,
25 sponsored or provided by an accredited postsecondary institution,
26 law enforcement agency, or the State Humane Association of
27 California.

28 (iii) The basic training for a level 1 reserve officer by the
29 Commission on Peace Officer Standards and Training pursuant to
30 paragraph (1) of subdivision (a) of Section 832.6 of the Penal
31 Code.

32 (E) A person shall not be appointed as a level 1 humane officer
33 until he or she meets the criteria in Sections 1029, 1030, and 1031
34 of the Government Code. A humane society or society for the
35 prevention of cruelty to animals shall complete a background
36 investigation, using standards defined by the Commission on Peace
37 Officer Standards and Training as guidelines for all level 1 humane
38 officer appointments.

39 (F) (i) Notwithstanding any other provision of this section, a
40 level 1 humane officer may carry a firearm only if authorized by,

1 and only under the terms and conditions specified by, his or her
2 appointing society.

3 (ii) Notwithstanding any other provision of this section, a level
4 1 humane officer shall not be authorized to carry a firearm unless
5 and until his or her appointing society has adopted a policy on the
6 use of deadly force by its officers and the officer has been
7 instructed in that policy.

8 (2) (A) A level 2 humane officer is not a peace officer, but may
9 exercise the powers of a peace officer at all places within the state
10 in order to prevent the perpetration of any act of cruelty upon any
11 animal and to that end may summon to his or her aid any bystander.
12 A level 2 humane officer may use reasonable force necessary to
13 prevent the perpetration of any act of cruelty upon any animal.

14 (B) A level 2 humane officer may make arrests for the violation
15 of any penal law of this state relating to or affecting animals in the
16 same manner as any peace officer and may serve search warrants
17 during the course and within the scope of appointment, upon the
18 successful completion of a course relating to the exercise of the
19 police powers specified in Section 832 of the Penal Code, except
20 the power to carry and use firearms.

21 (C) A level 2 humane officer is not authorized to carry firearms.

22 (D) A level 2 humane officer shall, prior to appointment, provide
23 evidence satisfactory to the appointing society that he or she has
24 successfully completed courses of training in the following
25 subjects:

26 (i) At least 20 hours of a course of training in animal care
27 sponsored or provided by an accredited postsecondary institution
28 or any other provider approved by the California Veterinary
29 Medical Association, the focus of which is the identification of
30 disease, injury, and neglect in domestic animals and livestock.

31 (ii) At least 40 hours of a course of training in the state humane
32 laws relating to the powers and duties of a humane officer,
33 sponsored or provided by an accredited postsecondary institution,
34 law enforcement agency, or the State Humane Association of
35 California.

36 (E) A person shall not be appointed as a level 2 humane officer
37 until he or she meets the criteria in Sections 1029, 1030, and 1031
38 of the Government Code. A humane society or society for the
39 prevention of cruelty to animals shall complete a background
40 investigation, using standards defined by the Commission on Peace

1 Officer Standards and Training as guidelines, for all level 2 humane
2 officer appointments.

3 (3) During each three-year period following the date on which
4 the certified copy of the court order confirming the appointment
5 of a humane officer was filed with the county clerk, the humane
6 officer shall complete 40 hours of continuing education and training
7 relating to the powers and duties of a humane officer, which
8 education and training shall be sponsored or provided by an
9 accredited postsecondary institution, law enforcement agency, or
10 the State Humane Association of California. A certificate of
11 compliance shall be served no later than 21 days after the expiration
12 of each three-year period on the Department of Justice with copies
13 served on the superior court, agencies, and associations described
14 in subparagraphs (A) through (E) of paragraph (2) of subdivision
15 (b). The Department of Justice may charge a reasonable fee
16 sufficient to cover the costs of maintaining records of certificates
17 of compliance. The certificate of compliance shall also include
18 documentation that the humane society or society for the prevention
19 of cruelty to animals is in compliance with subparagraph (F) of
20 paragraph (3) of subdivision (b). Service on the Department of
21 Justice shall be in compliance with procedures set forth by the
22 Department of Justice. The Department of Justice shall post the
23 filing procedures, as they may be updated from time to time, on
24 its Internet Web site. Failure to file the certificate of compliance
25 with the Department of Justice no later than 21 days after the
26 expiration of a three-year period shall result in immediate
27 revocation of the appointment.

28 (4) If the humane officer is authorized to carry a firearm, he or
29 she shall complete ongoing weapons training and range
30 qualifications at least every six months pursuant to subdivision (t)
31 of Section 830.3 of the Penal Code. A certificate of compliance
32 pursuant to this section shall be served no later than 21 days after
33 the expiration of a six-month period on the Department of Justice
34 with copies served on the superior court, and on the agencies and
35 associations described in subparagraphs (A) through (E) of
36 paragraph (2) of subdivision (b). The Department of Justice may
37 charge a reasonable fee sufficient to cover the costs of maintaining
38 records of certificates of compliance. The certificate of compliance
39 shall also include documentation that the humane society or society
40 for the prevention of cruelty to animals is in compliance with

1 subparagraph (F) of paragraph (3) of subdivision (b). Service on
2 the Department of Justice shall be in compliance with procedures
3 set forth by the Department of Justice. The Department of Justice
4 shall post the filing procedures, as they may be updated from time
5 to time, on its Internet Web site. Failure to file the certificate of
6 compliance with the Department of Justice no later than 21 days
7 after the expiration of a six-month period shall result in immediate
8 revocation of the appointment.

9 (i) Every humane officer shall, when making an arrest, exhibit
10 and expose a suitable badge to be adopted by the society under
11 this part of which he or she is an appointee which shall bear its
12 name and a number. Uniforms worn by humane officers shall
13 prominently display the name of the appointing society. Humane
14 officer uniforms shall not display the words “state” or “California,”
15 except to the extent that one or both of those words are part of the
16 appointing society’s incorporated name.

17 (j) Any person resisting a humane officer in the performance
18 of his or her duty as provided in this section is guilty of a
19 misdemeanor. Any person who has not been appointed and
20 qualified as a humane officer as provided in this section, or whose
21 appointment has been revoked as provided in this section, or whose
22 appointment, having expired, has not been renewed as provided
23 in this section, who shall represent himself or herself to be or shall
24 attempt to act as an officer shall be guilty of a misdemeanor.

25 (k) No humane officer shall serve a search warrant without
26 providing prior notice to local law enforcement agencies operating
27 within that jurisdiction.

28 (l) Any humane society, society for the prevention of cruelty to
29 animals, or person, who knowingly provides a court with false or
30 forged documentation for the appointment of a humane officer, is
31 guilty of a misdemeanor and shall be punished by a fine of up to
32 ten thousand dollars (\$10,000).

33 (m) Except as otherwise provided by this section, a humane
34 officer shall serve only in the county in which the court that
35 appointed him or her sits. A humane officer may serve in another
36 county if the humane officer gives notice requesting consent to
37 the sheriff of the county in which he or she intends to serve, and
38 acquires consent from that sheriff of the county in which he or she
39 intends to serve, or from a person authorized by the sheriff to give
40 that consent. A sheriff shall promptly respond to any request by a

1 humane officer to serve in his or her jurisdiction and any request
2 shall not be unreasonably denied.

3 SEC. 7. Section 915.2 of the Government Code is amended to
4 read:

5 915.2. (a) If a claim, amendment to a claim, or application to
6 a public entity for leave to present a late claim is presented or sent
7 by mail under this chapter, or if any notice under this chapter is
8 given by mail, the claim, amendment, application, or notice shall
9 be mailed in the manner prescribed in this section. The claim,
10 amendment, application, or notice shall be deposited in the United
11 States post office, a mailbox, sub-post office, substation, mail
12 chute, or other similar facility regularly maintained by the
13 government of the United States, in a sealed envelope, properly
14 addressed, with postage paid. The claim, amendment, application,
15 or notice shall be deemed to have been presented and received at
16 the time of the deposit.

17 (b) Any period of notice and any duty to respond after receipt
18 of service of a claim, amendment, application, or notice is extended
19 five days upon service by mail, if the place of address is within
20 the State of California, 10 days if the place of address is within
21 the United States, and 20 days if the place of address is outside
22 the United States. This subdivision shall not apply to the written
23 notice set forth in Section 945.6 or the filing of a complaint after
24 denial of a claim.

25 (c) As applied to this section, proof of mailing may be made in
26 the manner prescribed by Section 1013a of the Code of Civil
27 Procedure.

28 SEC. 8. Section 7100 of the Health and Safety Code is amended
29 to read:

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

37 (1) An agent under a power of attorney for health care who has
38 the right and duty of disposition under Division 4.7 (commencing
39 with Section 4600) of the Probate Code, except that the agent is

1 liable for the costs of disposition only in either of the following
2 cases:

3 (A) Where the agent makes a specific agreement to pay the costs
4 of disposition.

5 (B) Where, in the absence of a specific agreement, the agent
6 makes decisions concerning disposition that incur costs, in which
7 case the agent is liable only for the reasonable costs incurred as a
8 result of the agent's decisions, to the extent that the decedent's
9 estate or other appropriate fund is insufficient.

10 (2) The competent surviving spouse.

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

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

25 (5) The sole surviving competent adult sibling of the decedent,
26 or if there is more than one surviving competent adult sibling of
27 the decedent, the majority of the surviving competent adult siblings.
28 However, less than the majority of the surviving competent adult
29 siblings shall be vested with the rights and duties of this section
30 if they have used reasonable efforts to notify all other surviving
31 competent adult siblings of their instructions and are not aware of
32 any opposition to those instructions by the majority of all surviving
33 competent adult siblings.

34 (6) The surviving competent adult person or persons respectively
35 in the next degrees of kinship, or if there is more than one surviving
36 competent adult person of the same degree of kinship, the majority
37 of those persons. Less than the majority of surviving competent
38 adult persons of the same degree of kinship shall be vested with
39 the rights and duties of this section if those persons have used
40 reasonable efforts to notify all other surviving competent adult

1 persons of the same degree of kinship of their instructions and are
2 not aware of any opposition to those instructions by the majority
3 of all surviving competent adult persons of the same degree of
4 kinship.

5 (7) A conservator of the person appointed under Part 3
6 (commencing with Section 1800) of Division 4 of the Probate
7 Code when the decedent has sufficient assets.

8 (8) A conservator of the estate appointed under Part 3
9 (commencing with Section 1800) of Division 4 of the Probate
10 Code when the decedent has sufficient assets.

11 (9) The public administrator when the deceased has sufficient
12 assets.

13 (b) (1) If any person to whom the right of control has vested
14 pursuant to subdivision (a) has been charged with first or second
15 degree murder or voluntary manslaughter in connection with the
16 decedent's death and those charges are known to the funeral
17 director or cemetery authority, the right of control is relinquished
18 and passed on to the next of kin in accordance with subdivision
19 (a).

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

23 (3) Notwithstanding this subdivision, no person who has been
24 charged with first or second degree murder or voluntary
25 manslaughter in connection with the decedent's death to whom
26 the right of control has not been returned pursuant to paragraph
27 (2) shall have any right to control disposition pursuant to
28 subdivision (a) which shall be applied, to the extent the funeral
29 director or cemetery authority know about the charges, as if that
30 person did not exist.

31 (c) A funeral director or cemetery authority shall have complete
32 authority to control the disposition of the remains, and to proceed
33 under this chapter to recover usual and customary charges for the
34 disposition, when both of the following apply:

35 (1) Either of the following applies:

36 (A) The funeral director or cemetery authority has knowledge
37 that none of the persons described in paragraphs (1) to (8),
38 inclusive, of subdivision (a) exists.

1 (B) None of the persons described in paragraphs (1) to (8),
2 inclusive, of subdivision (a) can be found after reasonable inquiry,
3 or contacted by reasonable means.

4 (2) The public administrator fails to assume responsibility for
5 disposition of the remains within seven days after having been
6 given written notice of the facts. Written notice may be delivered
7 by hand, United States mail, facsimile transmission, or telegraph.

8 (d) The liability for the reasonable cost of final disposition
9 devolves jointly and severally upon all kin of the decedent in the
10 same degree of kinship and upon the estate of the decedent.
11 However, if a person accepts the gift of an entire body under
12 subdivision (a) of Section 7155.5, that person, subject to the terms
13 of the gift, shall be liable for the reasonable cost of final disposition
14 of the decedent.

15 (e) This section shall be administered and construed to the end
16 that the expressed instructions of the decedent or the person entitled
17 to control the disposition shall be faithfully and promptly
18 performed.

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

22 (g) For purposes of this section, “adult” means an individual
23 who has attained 18 years of age, “child” means a natural or
24 adopted child of the decedent, and “competent” means an
25 individual who has not been declared incompetent by a court of
26 law or who has been declared competent by a court of law
27 following a declaration of incompetence.

28 SEC. 8.5. Section 7100 of the Health and Safety Code is
29 amended to read:

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

37 (1) An agent under a power of attorney for health care who has
38 the right and duty of disposition under Division 4.7 (commencing
39 with Section 4600) of the Probate Code, except that the agent is

1 liable for the costs of disposition only in either of the following
2 cases:

3 (A) Where the agent makes a specific agreement to pay the costs
4 of disposition.

5 (B) Where, in the absence of a specific agreement, the agent
6 makes decisions concerning disposition that incur costs, in which
7 case the agent is liable only for the reasonable costs incurred as a
8 result of the agent's decisions, to the extent that the decedent's
9 estate or other appropriate fund is insufficient.

10 (2) The competent surviving spouse.

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

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

25 (5) The sole surviving competent adult sibling of the decedent
26 or, if there is more than one surviving competent adult sibling of
27 the decedent, the majority of the surviving competent adult siblings.
28 However, less than the majority of the surviving competent adult
29 siblings shall be vested with the rights and duties of this section
30 if they have used reasonable efforts to notify all other surviving
31 competent adult siblings of their instructions and are not aware of
32 any opposition to those instructions by the majority of all surviving
33 competent adult siblings.

34 (6) The surviving competent adult person or persons respectively
35 in the next degrees of kinship or, if there is more than one surviving
36 competent adult person of the same degree of kinship, the majority
37 of those persons. Less than the majority of surviving competent
38 adult persons of the same degree of kinship shall be vested with
39 the rights and duties of this section if those persons have used
40 reasonable efforts to notify all other surviving competent adult

1 persons of the same degree of kinship of their instructions and are
2 not aware of any opposition to those instructions by the majority
3 of all surviving competent adult persons of the same degree of
4 kinship.

5 (7) A conservator of the person appointed under Part 3
6 (commencing with Section 1800) of Division 4 of the Probate
7 Code when the decedent has sufficient assets.

8 (8) A conservator of the estate appointed under Part 3
9 (commencing with Section 1800) of Division 4 of the Probate
10 Code when the decedent has sufficient assets.

11 (9) The public administrator when the deceased has sufficient
12 assets.

13 (b) (1) If a person to whom the right of control has vested
14 pursuant to subdivision (a) has been charged with first or second
15 degree murder or voluntary manslaughter in connection with the
16 decedent's death and those charges are known to the funeral
17 director or cemetery authority, the right of control is relinquished
18 and passed on to the next of kin in accordance with subdivision
19 (a).

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

23 (3) Notwithstanding this subdivision, no person who has been
24 charged with first or second degree murder or voluntary
25 manslaughter in connection with the decedent's death to whom
26 the right of control has not been returned pursuant to paragraph
27 (2) shall have any right to control disposition pursuant to
28 subdivision (a) which shall be applied, to the extent the funeral
29 director or cemetery authority know about the charges, as if that
30 person did not exist.

31 (c) A funeral director or cemetery authority shall have complete
32 authority to control the disposition of the remains and to proceed
33 under this chapter to recover usual and customary charges for the
34 disposition when both of the following apply:

35 (1) Either of the following applies:

36 (A) The funeral director or cemetery authority has knowledge
37 that none of the persons described in paragraphs (1) to (8),
38 inclusive, of subdivision (a) exists.

1 (B) None of the persons described in paragraphs (1) to (8),
2 inclusive, of subdivision (a) can be found after reasonable inquiry,
3 or contacted by reasonable means.

4 (2) The public administrator fails to assume responsibility for
5 disposition of the remains within seven days after having been
6 given written notice of the facts. Written notice may be delivered
7 by hand, United States mail, facsimile transmission, or telegraph.

8 (d) The liability for the reasonable cost of final disposition
9 devolves jointly and severally upon all kin of the decedent in the
10 same degree of kinship and upon the estate of the decedent.
11 However, if a person accepts the gift of an entire body under
12 subdivision (a) of Section 7155.5, that person, subject to the terms
13 of the gift, shall be liable for the reasonable cost of final disposition
14 of the decedent.

15 (e) This section shall be administered and construed to the end
16 that the expressed instructions of the decedent or the person entitled
17 to control the disposition shall be faithfully and promptly
18 performed.

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

22 (g) For purposes of this section, “adult” means an individual
23 who has attained 18 years of age, “child” means a natural or
24 adopted child of the decedent, and “competent” means an
25 individual who has not been declared incompetent by a court of
26 law or who has been declared competent by a court of law
27 following a declaration of incompetence.

28 (h) (1) For the purpose of paragraph (1) of subdivision (a), the
29 designation of a person authorized to direct disposition (PADD)
30 on a United States Department of Defense Record of Emergency
31 Data, DD Form 93, as that form exists on December 31, 2011, or
32 its successor form ~~if approved by the State Registrar~~, shall take
33 first priority and be used to establish an agent who has the right
34 and duty of disposition for a decedent who died while on duty in
35 any branch or component of the Armed Forces of the United States,
36 as defined by Section 1481 of Title 10 of the United States Code.

37 (2) This subdivision shall become operative only if the United
38 States Department of Defense Record of Emergency Data, DD
39 Form 93, and Section 1482(c) of Title 10 of the United States Code
40 are amended to allow a service member to designate any person,

1 regardless of the relationship of the designee to the decedent, as
2 the agent who has the right of disposition of a service member's
3 remains.

4 SEC. 9. Section 259 of the Probate Code is amended to read:

5 259. (a) Any person shall be deemed to have predeceased a
6 decedent to the extent provided in subdivision (c) where all of the
7 following apply:

8 (1) It has been proven by clear and convincing evidence that
9 the person is liable for physical abuse, neglect, or financial abuse
10 of the decedent, who was an elder or dependent adult.

11 (2) The person is found to have acted in bad faith.

12 (3) The person has been found to have been reckless, oppressive,
13 fraudulent, or malicious in the commission of any of these acts
14 upon the decedent.

15 (4) The decedent, at the time those acts occurred and thereafter
16 until the time of his or her death, has been found to have been
17 substantially unable to manage his or her financial resources or to
18 resist fraud or undue influence.

19 (b) Any person shall be deemed to have predeceased a decedent
20 to the extent provided in subdivision (c) if that person has been
21 convicted of a violation of Section 236 of the Penal Code or any
22 offense described in Section 368 of the Penal Code.

23 (c) Any person found liable under subdivision (a) or convicted
24 under subdivision (b) shall not (1) receive any property, damages,
25 or costs that are awarded to the decedent's estate in an action
26 described in subdivision (a) or (b), whether that person's
27 entitlement is under a will, a trust, or the laws of intestacy; or (2)
28 serve as a fiduciary as defined in Section 39, if the instrument
29 nominating or appointing that person was executed during the
30 period when the decedent was substantially unable to manage his
31 or her financial resources or resist fraud or undue influence. This
32 section shall not apply to a decedent who, at any time following
33 the act or acts described in paragraph (1) of subdivision (a), or the
34 act or acts described in subdivision (b), was substantially able to
35 manage his or her financial resources and to resist fraud or undue
36 influence within the meaning of subdivision (b) of Section 1801
37 of the Probate Code and subdivision (b) of Section 39 of the Civil
38 Code.

39 (d) For purposes of this section, the following definitions shall
40 apply:

- 1 (1) “Physical abuse” as defined in Section 15610.63 of the
2 Welfare and Institutions Code.
- 3 (2) “Neglect” as defined in Section 15610.57 of the Welfare
4 and Institutions Code.
- 5 (3) “False imprisonment” as defined in Section 368 of the Penal
6 Code.
- 7 (4) “Financial abuse” as defined in Section 15610.30 of the
8 Welfare and Institutions Code.
- 9 (e) Nothing in this section shall be construed to prohibit the
10 severance and transfer of an action or proceeding to a separate
11 civil action pursuant to Section 801.
- 12 SEC. 10. Section 2583 of the Probate Code is amended to read:
13 2583. In determining whether to authorize or require a proposed
14 action under this article, the court shall take into consideration all
15 the relevant circumstances, which may include, but are not limited
16 to, the following:
 - 17 (a) Whether the conservatee has legal capacity for the proposed
18 transaction and, if not, the probability of the conservatee’s recovery
19 of legal capacity.
 - 20 (b) The past donative declarations, practices, and conduct of
21 the conservatee.
 - 22 (c) The traits of the conservatee.
 - 23 (d) The relationship and intimacy of the prospective donees
24 with the conservatee, their standards of living, and the extent to
25 which they would be natural objects of the conservatee’s bounty
26 by any objective test based on such relationship, intimacy, and
27 standards of living.
 - 28 (e) The wishes of the conservatee.
 - 29 (f) Any known estate plan of the conservatee (including, but
30 not limited to, the conservatee’s will, any trust of which the
31 conservatee is the settlor or beneficiary, any power of appointment
32 created by or exercisable by the conservatee, and any contract,
33 transfer, or joint ownership arrangement with provisions for
34 payment or transfer of benefits or interests at the conservatee’s
35 death to another or others which the conservatee may have
36 originated).
 - 37 (g) The manner in which the estate would devolve upon the
38 conservatee’s death, giving consideration to the age and the mental
39 and physical condition of the conservatee, the prospective devisees
40 or heirs of the conservatee, and the prospective donees.

1 (h) The value, liquidity, and productiveness of the estate.

2 (i) The minimization of current or prospective income, estate,
3 inheritance, or other taxes or expenses of administration.

4 (j) Changes of tax laws and other laws which would likely have
5 motivated the conservatee to alter the conservatee's estate plan.

6 (k) The likelihood from all the circumstances that the
7 conservatee as a reasonably prudent person would take the
8 proposed action if the conservatee had the capacity to do so.

9 (l) Whether any beneficiary is the spouse or domestic partner
10 of the conservatee.

11 (m) Whether a beneficiary has committed physical abuse,
12 neglect, false imprisonment, or financial abuse against the
13 conservatee after the conservatee was substantially unable to
14 manage his or her financial resources, or resist fraud or undue
15 influence, and the conservatee's disability persisted throughout
16 the time of the hearing on the proposed substituted judgment.

17 SEC. 11. Section 8250 of the Probate Code is amended to read:

18 8250. (a) When a will is contested under Section 8004, the
19 contestant shall file with the court an objection to probate of the
20 will. Thereafter, a summons shall be issued and served, with a
21 copy of the objection, on the persons required by Section 8110 to
22 be served with notice of hearing of a petition for administration
23 of the decedent's estate. The summons shall be issued and served
24 as provided in Chapter 3 (commencing with Section 412.10) and
25 Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2
26 of the Code of Civil Procedure. The summons shall contain a
27 direction that the persons summoned file with the court a written
28 pleading in response to the contest within 30 days after service of
29 the summons.

30 (b) A person named as executor in the will is under no duty to
31 defend a contest until the person is appointed personal
32 representative.

33 SEC. 12. Section 19280 of the Revenue and Taxation Code is
34 amended to read:

35 19280. (a) (1) Fines, state or local penalties, bail, forfeitures,
36 restitution fines, restitution orders, or any other amounts imposed
37 by a superior court of the State of California upon a person or any
38 other entity that are due and payable in an amount totaling no less
39 than one hundred dollars (\$100), in the aggregate, for criminal
40 offenses, including all offenses involving a violation of the Vehicle

1 Code, and any amounts due pursuant to Section 903.1 of the
2 Welfare and Institutions Code may, no sooner than 90 days after
3 payment of that amount becomes delinquent, be referred by the
4 superior court, the county, or the state to the Franchise Tax Board
5 for collection under guidelines prescribed by the Franchise Tax
6 Board. Unless the victim of the crime notifies the Department of
7 Corrections and Rehabilitation to the contrary, the Department of
8 Corrections and Rehabilitation may refer a restitution order to the
9 Franchise Tax Board, in accordance with subparagraph (B) of
10 paragraph (2), for any person subject to the restitution order who
11 is or has been under the jurisdiction of the Department of
12 Corrections and Rehabilitation.

13 (2) For purposes of this subdivision:

14 (A) The amounts referred by the superior court, the county, or
15 state under this section may include an administrative fee and any
16 amounts that a government entity may add to the court-imposed
17 obligation as a result of the underlying offense, trial, or conviction.
18 For purposes of this article, those amounts shall be deemed to be
19 imposed by the court.

20 (B) Restitution orders may be referred to the Franchise Tax
21 Board only by a government entity, as agreed upon by the
22 Franchise Tax Board, provided that all of the following apply:

23 (i) The government entity has the authority to collect on behalf
24 of the state or the victim.

25 (ii) The government entity shall be responsible for distributing
26 the restitution order collections, as appropriate.

27 (iii) The government entity shall ensure, in making the referrals
28 and distributions, that it coordinates with any other related
29 collection activities that may occur by superior courts, counties,
30 or other state agencies.

31 (iv) The government entity shall ensure compliance with laws
32 relating to the reimbursement of the State Restitution Fund.

33 (C) The Franchise Tax Board shall establish criteria for referral,
34 which shall include setting forth a minimum dollar amount subject
35 to referral and collection.

36 (b) The Franchise Tax Board, in conjunction with the Judicial
37 Council, shall seek whatever additional resources are needed to
38 accept referrals from all 58 counties or superior courts.

39 (c) Upon written notice to the debtor from the Franchise Tax
40 Board, any amount referred to the Franchise Tax Board under

1 subdivision (a) and any interest thereon, including any interest on
2 the amount referred under subdivision (a) that accrued prior to the
3 date of referral, shall be treated as final and due and payable to the
4 State of California, and shall be collected from the debtor by the
5 Franchise Tax Board in any manner authorized under the law for
6 collection of a delinquent personal income tax liability, including,
7 but not limited to, issuance of an order and levy under Article 4
8 (commencing with Section 706.070) of Chapter 5 of Division 2
9 of Title 9 of Part 2 of the Code of Civil Procedure in the manner
10 provided for earnings withholding orders for taxes.

11 (d) (1) Part 10 (commencing with Section 17001), this part,
12 Part 10.7 (commencing with Section 21001), and Part 11
13 (commencing with Section 23001) shall apply to amounts referred
14 under this article in the same manner and with the same force and
15 effect and to the full extent as if the language of those laws had
16 been incorporated in full into this article, except to the extent that
17 any provision is either inconsistent with this article or is not
18 relevant to this article.

19 (2) Any information, information sources, or enforcement
20 remedies and capabilities available to the court or the state referring
21 to the amount due described in subdivision (a), shall be available
22 to the Franchise Tax Board to be used in conjunction with, or
23 independent of, the information, information sources, or remedies
24 and capabilities available to the Franchise Tax Board for purposes
25 of administering Part 10 (commencing with Section 17001), this
26 part, Part 10.7 (commencing with Section 21001), or Part 11
27 (commencing with Section 23001).

28 (e) The activities required to implement and administer this part
29 shall not interfere with the primary mission of the Franchise Tax
30 Board to administer Part 10 (commencing with Section 17001)
31 and Part 11 (commencing with Section 23001).

32 (f) For amounts referred for collection under subdivision (a),
33 interest shall accrue at the greater of the rate applicable to the
34 amount due being collected or the rate provided under Section
35 19521. When notice of the amount due includes interest and is
36 mailed to the debtor and the amount is paid within 15 days after
37 the date of notice, interest shall not be imposed for the period after
38 the date of notice.

1 (g) In no event shall a collection under this article be construed
2 as a payment of income taxes imposed under Part 10 (commencing
3 with Section 17001) or Part 11 (commencing with Section 23001).

4 SEC. 13. Section 903.47 of the Welfare and Institutions Code
5 is amended to read:

6 903.47. (a) The Judicial Council shall establish a program to
7 collect reimbursements from the person liable for the costs of
8 counsel appointed to represent parents or minors pursuant to
9 Section 903.1 in dependency proceedings.

10 (1) As part of the program, the Judicial Council shall:

11 (A) Adopt a statewide standard for determining the ability to
12 pay reimbursements for counsel, which shall at a minimum include
13 the family’s income, their necessary obligations, the number of
14 individuals dependent on this income, and the cost-effectiveness
15 of the program.

16 (B) Adopt policies and procedures allowing a court to recover
17 from the money collected the costs associated with implementing
18 the reimbursements program. The policies and procedures shall at
19 a minimum limit the amount of money a court may recover to a
20 reasonable proportion of the reimbursements collected and provide
21 the terms and conditions under which a court may use a third party
22 to collect reimbursements. For the purposes of this subparagraph,
23 “costs associated with implementing the reimbursements program”
24 means the court costs of assessing a parent’s ability to pay for
25 court-appointed counsel and the costs to collect delinquent
26 reimbursements.

27 (2) The money collected shall be deposited as required by
28 Section 68085.1 of the Government Code. Except as otherwise
29 authorized by law, the money collected under this program shall
30 be utilized to reduce caseloads, for attorneys appointed by the
31 court, to the caseload standard approved by the Judicial Council.
32 Priority shall be given to those courts with the highest attorney
33 caseloads that also demonstrate the ability to immediately improve
34 outcomes for parents and children as a result of lower attorney
35 caseloads.

36 (b) The court may do either of the following:

37 (1) Designate a court financial evaluation officer to make
38 financial evaluations of liability for reimbursement pursuant to
39 Section 903.1.

1 (2) With the consent of the county and pursuant to the terms
2 and conditions agreed upon by the court and county, designate a
3 county financial evaluation officer to make financial evaluations
4 of liability for reimbursement pursuant to Section 903.1.

5 (c) In handling reimbursement of payments pursuant to Section
6 903.1, the court financial evaluation officer and the county financial
7 evaluation officer shall follow the procedures set forth for county
8 financial evaluation officers in subdivisions (b), (c), and (d) of
9 Section 903.45.

10 SEC. 14. Section 8.5 of this bill incorporates amendments to
11 Section 7100 of the Health and Safety Code proposed by both this
12 bill and Assembly Bill 905. It shall only become operative if (1)
13 both bills are enacted and become effective on or before January
14 1, 2012, (2) each bill amends Section 7100 of the Health and Safety
15 Code, and (3) this bill is enacted after Assembly Bill 905, in which
16 case Section 8 of this bill shall not become operative.

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