

# California Laws Concerning Domestic Partners

## **FAMILY.CODE** **SECTION 297-297.5**

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

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

(1) Both persons have a common residence.

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

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

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

(5) Either of the following:

(A) Both persons are members of the same sex.

(B) One or both of the persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are over the age of 62.

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

(c) "Have a common residence" means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

297.5. (a) Registered domestic partners shall have the same rights,

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

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

(c) A surviving registered domestic partner, following the death of the other partner, shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.

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

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

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

(g) Notwithstanding this section, in filing their state income tax returns, domestic partners shall use the same filing status as is used on their federal income tax returns, or that would have been used had they filed federal income tax returns. Earned income may not be treated as community property for state income tax purposes.

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

(i) This act does not preclude any state or local agency from exercising its regulatory authority to implement statutes providing

rights to, or imposing responsibilities upon, domestic partners.

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

(k) This section does not amend or modify federal laws or the benefits, protections, and responsibilities provided by those laws.

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

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

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

## CALIFORNIA CODES

### INSURANCE CODE

#### SECTION 10110-10127.18

10121.7. (a) A policy of group health **insurance** that provides hospital, medical, or surgical expense benefits shall provide equal coverage to employers or guaranteed associations, as defined in Section 10700, for the registered **domestic partner** of an employee, insured, or policyholder to the same extent, and subject to the same terms and conditions, as provided to a spouse of the employee, insured, or policyholder, and shall inform employers and guaranteed associations of this coverage. A policy may not offer or provide coverage for a registered **domestic partner** that is not equal to the coverage provided to the spouse of an employee, insured, or policyholder.

(b) If an employer or guaranteed association has purchased coverage for spouses and registered **domestic** partners pursuant to subdivision (a), a health insurer that provides hospital, medical, or surgical expense benefits for employees, insureds, or policyholders and their spouses shall enroll, upon application by the employer or group administrator, a registered **domestic partner** of the employee, insured, or policyholder in accordance with the terms and conditions of the group contract that apply generally to all spouses under the policy, including coordination of benefits.

(c) For purposes of this section, the term "**domestic partner**" shall have the same meaning as that term is used in Section 297 of the Family **Code**.

(d) (1) A policy of group health **insurance** may require that the employee, insured, or policyholder verify the status of the **domestic** partnership by providing to the insurer a copy of a valid Declaration of **Domestic** Partnership filed with the Secretary of State pursuant to Section 298 of the Family **Code** or an equivalent document issued by a local agency of this state, another state, or a local agency of another state under which the partnership was created. The policy may also require that the employee, insured, or policyholder notify the insurer upon the termination of the **domestic** partnership.

(2) Notwithstanding paragraph (1), a policy may require the information described in that paragraph only if it also requests from the employee, insured, or policyholder whose spouse is provided coverage, verification of marital status and notification of dissolution of the marriage.

(e) Nothing in this section shall be construed to expand the requirements of Section 4980B of Title 26 of the United States **Code**, Section 1161, and following, of Title 29 of the United States **Code**, or Section 300bb-1, and following, of Title 42 of the United States **Code**, as added by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), and as those provisions may be later amended.

(f) A group health **insurance** policy subject to this section that is issued, amended, delivered, or renewed in this state on or after January 2, 2005, shall be deemed to provide coverage for registered **domestic** partners that is equal to the coverage provided to a spouse of an employee, insured, or policyholder.

CALIFORNIA CODES  
**INSURANCE CODE**  
SECTION 380-394

381.5. (a) Every policy issued, amended, delivered, or renewed in this state shall provide coverage for the registered **domestic partner**

of an insured or policyholder that is equal to, and subject to the same terms and conditions as, the coverage provided to a spouse of an insured or policyholder. A policy may not offer or provide coverage for a registered **domestic partner** if it is not equal to the coverage provided for the spouse of an insured or policyholder. This subdivision applies to all forms of **insurance** regulated by this **code**.

## CALIFORNIA CODES

### **UNEMPLOYMENT INSURANCE CODE**

#### SECTION 3300-3306

3301. (a) (1) The purpose of this chapter is to establish, within the state disability **insurance** program, a **family** temporary disability **insurance** program. **Family** temporary disability **insurance** shall provide up to six weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, **domestic partner**, or to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption.

(2) Nothing in this chapter shall be construed to abridge the rights and responsibilities conveyed under the CFRA or pregnancy disability leave.

(b) An individual's "weekly benefit amount" shall be the amount provided in Section 2655. An individual is eligible to receive **family** temporary disability **insurance** benefits equal to one-seventh of his or her weekly benefit amount for each full day during which he or she is unable to work due to caring for a seriously ill or injured **family** member or bonding with a minor child within one year of the birth or placement of the child in connection with foster care or adoption.

(c) The maximum amount payable to an individual during any disability benefit period for **family** temporary disability **insurance** shall be six times his or her "weekly benefit amount," but in no case shall the total amount of benefits payable be more than the total wages paid to the individual during his or her disability base period. If the benefit is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(d) No more than six weeks of **family** temporary disability **insurance** benefits shall be paid within any 12-month period.

(e) An individual shall file a claim for **family** temporary disability **insurance** benefits not later than the 41st consecutive day following the first compensable day with respect to which the claim is made for benefits, which time shall be extended by the department upon a showing of good cause. If a first claim is not complete, the claim form shall be returned to the claimant for completion and it

shall be completed and returned not later than the 10th consecutive day after the date it was mailed by the department to the claimant, except that such time shall be extended by the department upon a showing of good cause.

## **CALIFORNIA CODES**

### **LABOR CODE**

#### **SECTION 200-243**

230.2.(b) An employer, and any agent of an employer, shall allow an employee who is a victim of a crime, an immediate **family** member of a victim, a registered **domestic partner** of a victim, or the child of a registered **domestic partner** of a victim to be absent from work in order to attend judicial proceedings related to that crime.

233. (a) Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, to attend to an illness of a child, parent, spouse, or **domestic partner** of the employee. All conditions and restrictions placed by the employer upon the use by an employee of sick leave also shall apply to the use by an employee of sick leave to attend to an illness of his or her child, parent, spouse, or **domestic partner**. This section does not extend the maximum period of leave to which an employee is entitled under Section 12945.2 of the Government **Code** or under the federal **Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2606 et seq.)**, regardless of whether the employee receives sick leave compensation during that leave.

230.8. (a) (1) No employer who employs 25 or more employees working at the same location shall discharge or in any way discriminate against an employee who is a parent, guardian, or grandparent having custody, of one or more children in kindergarten or grades 1 to 12, inclusive, or attending a licensed child day care facility, for taking off up to 40 hours each year, not exceeding eight hours in any calendar month of the year, to participate in activities of the school or licensed child day care facility of any of his or her children, if the employee, prior to taking the time off, gives reasonable notice to the employer of the planned absence of the employee. (2) If both parents of a child are employed by the same employer at the same worksite, the entitlement under paragraph (1) of a planned absence as to that child applies, at any one time, only to the parent who first gives notice to the employer, such that the other parent may take a planned absence simultaneously as to that same child under the conditions described in paragraph (1) only if he or she obtains the employer's approval for the requested time off. (b) (1) The employee shall utilize existing vacation, personal leave, or compensatory time off for purposes of the planned absence authorized by this section, unless otherwise provided by a collective bargaining agreement entered into before January 1, 1995, and in effect on that date. An employee also may

utilize time off without pay for this purpose, to the extent made available by his or her employer. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition that is agreed to on or after January 1, 1995. (2) Notwithstanding paragraph (1), in the event that all permanent, full-time employees of an employer are accorded vacation during the same period of time in the calendar year, an employee of that employer may not utilize that accrued vacation benefit at any other time for purposes of the planned absence authorized by this section. (c) The employee, if requested by the employer, shall provide documentation from the school or licensed child day care facility as proof that he or she participated in school or licensed child day care facility activities on a specific date and at a particular time. For purposes of this subdivision, "documentation" means whatever written verification of parental participation the school or licensed child day care facility deems appropriate and reasonable. (d) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in terms and conditions of employment by his or her employer because the employee has taken time off to participate in school or licensed child day care facility activities as described in this section shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law shall be subject to a civil penalty in an amount equal to three times the amount of the employee's lost wages and work benefits.