

PROBATE CODE

§ 44. “Heir”

“Heir” means any person, including the surviving spouse, who is entitled to take property of the decedent by intestate succession under this code.

§ 24. “Beneficiary”

“Beneficiary” means a person to whom a donative transfer of property is made or that person’s successor in interest, and:

- (a) As it relates to the intestate estate of a decedent, means an heir.
- (b) As it relates to the testate estate of a decedent, means a devisee.
- (c) As it relates to a trust, means a person who has any present or future interest, vested or contingent.
- (d) As it relates to a charitable trust, includes any person entitled to enforce the trust.

§ 26. “Child”

“Child” means any individual entitled to take as a child under this code by intestate succession from the parent whose relationship is involved.

§ 36. “Dissolution of marriage”

“Dissolution of marriage” includes divorce.

§ 37. “Domestic partner”; Rights of surviving domestic partner

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

(b) Notwithstanding [Section 299 of the Family Code](#), if a domestic partnership is terminated by the death of one of the parties and Notice of Termination was not filed by either party prior to the date of death of the decedent, the domestic partner who survives the deceased is a surviving domestic partner, and shall be entitled to the rights of a surviving domestic partner as provided in this code.

§ 48. “Interested person”

- (a) Subject to subdivision (b), “interested person” includes any of the following:
- (1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding.

(2) Any person having priority for appointment as personal representative.

(3) A fiduciary representing an interested person.

(b) The meaning of “interested person” as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.

§ 54. “Parent”

“Parent” means any individual entitled to take as a parent under this code by intestate succession from the child whose relationship is involved.

§ 59. “Predeceased spouse”

“Predeceased spouse” means a person who died before the decedent while married to the decedent, except that the term does not include any of the following:

(a) A person who obtains or consents to a final decree or judgment of dissolution of marriage from the decedent or a final decree or judgment of annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless they (1) subsequently participate in a marriage ceremony purporting to marry each to the other or (2) subsequently live together as spouses.

(b) A person who, following a decree or judgment of dissolution or annulment of marriage obtained by the decedent, participates in a marriage ceremony to a third person.

(c) A person who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

§ 72. “Spouse” to include registered domestic partner

“Spouse” includes domestic partner, as defined in [Section 37](#) of this code, as required by [Section 297.5 of the Family Code](#).

§ 78. “Surviving spouse”

“Surviving spouse” does not include any of the following:

(a) A person whose marriage to, or registered domestic partnership with, the decedent has been dissolved or annulled, unless, by virtue of a subsequent marriage or registered domestic partnership, the person is married to, or in a registered domestic partnership with, the decedent at the time of death.

(b) A person who obtains or consents to a final decree or judgment of dissolution of marriage or termination of registered domestic partnership from the decedent or a final decree or judgment of annulment of their marriage or termination of registered domestic partnership, which decree or judgment is not recognized as valid in this state, unless they (1) subsequently participate in a marriage ceremony purporting to marry each to the other or (2) subsequently live together as spouses.

(c) A person who, following a decree or judgment of dissolution or annulment of marriage or registered domestic partnership obtained by the decedent, participates in a marriage ceremony with a third person.

(d) A person who was a party to a valid proceeding concluded by an order purporting to terminate all marital or registered domestic partnership property rights.

§ 100. Community property

(a) Upon the death of a person who is married or in a registered domestic partnership, one-half of the community property belongs to the surviving spouse and the other one-half belongs to the decedent.

(b) Notwithstanding subdivision (a), spouses may agree in writing to divide their community property on the basis of a non pro rata division of the aggregate value of the community property or on the basis of a division of each individual item or asset of community property, or partly on each basis. Nothing in this subdivision shall be construed to require this written agreement in order to permit or recognize a non pro rata division of community property.

§ 101. Quasi-community property

(a) Upon the death of a person who is married or in a registered domestic partnership, and is domiciled in this state, one-half of the decedent's quasi-community property belongs to the surviving spouse and the other one-half belongs to the decedent.

(b) Notwithstanding subdivision (a), spouses may agree in writing to divide their quasi-community property on the basis of a non pro rata division of the aggregate value of the quasi-community property, or on the basis of a division of each individual item or asset of quasi-community property, or partly on each basis. Nothing in this subdivision shall be construed to require this written agreement in order to permit or recognize a non pro rata division of quasi-community property.

§ 104.5. Transfers to revocable trust

Transfer of community and quasi-community property to a revocable trust shall be presumed to be an agreement, pursuant to [Sections 100](#) and [101](#), that those assets retain their character in the aggregate for purposes of any division provided by the trust. This section shall apply to all transfers prior to, on, or after January 1, 2000.

§ 5040. Failure of nonprobate transfer; Exceptions

(a) Except as provided in subdivision (b), a nonprobate transfer to the transferor's former spouse, in an instrument executed by the transferor before or during the marriage or registered domestic partnership, fails if, at the time of the transferor's death, the former spouse is not the transferor's surviving spouse as defined in [Section 78](#), as a result of the

dissolution or annulment of the marriage or termination of registered domestic partnership. A judgment of legal separation that does not terminate the status of spouses is not a dissolution for purposes of this section.

(b) Subdivision (a) does not cause a nonprobate transfer to fail in any of the following cases:

(1) The nonprobate transfer is not subject to revocation by the transferor at the time of the transferor's death.

(2) There is clear and convincing evidence that the transferor intended to preserve the nonprobate transfer to the former spouse.

(3) A court order that the nonprobate transfer be maintained on behalf of the former spouse is in effect at the time of the transferor's death.

(c) Where a nonprobate transfer fails by operation of this section, the instrument making the nonprobate transfer shall be treated as it would if the former spouse failed to survive the transferor.

(d) Nothing in this section affects the rights of a subsequent purchaser or encumbrancer for value in good faith who relies on the apparent failure of a nonprobate transfer under this section or who lacks knowledge of the failure of a nonprobate transfer under this section.

(e) As used in this section, "nonprobate transfer" means a provision, other than a provision of a life insurance policy, of either of the following types:

(1) A provision of a type described in [Section 5000](#).

(2) A provision in an instrument that operates on death, other than a will, conferring a power of appointment or naming a trustee.

This section may be preempted by federal laws with respect to employer-provided benefits. See [Egelhoff v. Egelhoff, 121 S. Ct. 1322 \(2001\)](#) (ERISA preempts state law revoking spouse's rights as beneficiary of employer-provided life insurance). It is therefore especially important on dissolution or annulment of marriage to review beneficiary designations for employer-provided benefits.

§ 5042. Severance of joint tenancy

(a) Except as provided in subdivision (b), a joint tenancy between the decedent and the decedent's former spouse, created before or during the marriage or registered domestic partnership, is severed as to the decedent's interest if, at the time of the decedent's death, the former spouse is not the decedent's surviving spouse as defined in [Section 78](#), as a result of the dissolution or annulment of the marriage or registered domestic partnership. A judgment of legal separation that does not terminate the status of spouses is not a dissolution for purposes of this section.

(b) Subdivision (a) does not sever a joint tenancy in either of the following cases:

(1) The joint tenancy is not subject to severance by the decedent at the time of the decedent's death.

(2) There is clear and convincing evidence that the decedent intended to preserve the joint tenancy in favor of the former spouse.

(c) Nothing in this section affects the rights of a subsequent purchaser or encumbrancer for value in good faith who relies on an apparent severance under this section or who lacks knowledge of a severance under this section.

(d) For purposes of this section, property held in “joint tenancy” includes property held as community property with right of survivorship, as described in [Section 682.1 of the Civil Code](#).

§ 6400. Property subject to intestacy provisions

Any part of the estate of a decedent not effectively disposed of by will passes to the decedent’s heirs as prescribed in this part.

§ 6401. Intestate share of surviving spouse

(a) As to community property, the intestate share of the surviving spouse is the one-half of the community property that belongs to the decedent under [Section 100](#).

(b) As to quasi-community property, the intestate share of the surviving spouse is the one-half of the quasi-community property that belongs to the decedent under [Section 101](#).

(c) As to separate property, the intestate share of the surviving spouse is as follows:

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

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

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

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

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

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

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

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

§ 297.5. Rights, protections, benefits and responsibilities of present, former, and surviving registered domestic partners; Federal provisions; Long-term care plans; Constitutional provisions and provisions adopted by initiative

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

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

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

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

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

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

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

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

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

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

(k)

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

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

§ 308. Validity of foreign marriage

A marriage contracted outside this state that would be valid by laws of the jurisdiction in which the marriage was contracted is valid in California.

§ 2200. Incestuous marriages

Marriages between parents and children, ancestors and descendants of every degree, and between siblings of the half as well as the whole blood, and between uncles or aunts and nieces or nephews, are incestuous, and void from the beginning, whether the relationship is legitimate or illegitimate.

§ 2201. Bigamous and polygamous marriages

(a) A subsequent marriage contracted by a person during the life of his or her former spouse, with a person other than the former spouse, is illegal and void, unless:

(1) The former marriage has been dissolved or adjudged a nullity before the date of the subsequent marriage.

(2) The former spouse (A) is absent, and not known to the person to be living for the period of five successive years immediately preceding the subsequent marriage, or (B) is

generally reputed or believed by the person to be dead at the time the subsequent marriage was contracted.

(b) In either of the cases described in paragraph (2) of subdivision (a), the subsequent marriage is valid until its nullity is adjudged pursuant to subdivision (b) of [Section 2210](#).

§ 2210. Grounds for nullity

A marriage is voidable and may be adjudged a nullity if any of the following conditions existed at the time of the marriage:

(a) The party who commences the proceeding or on whose behalf the proceeding is commenced was under 18 years of age, unless the party entered into the marriage pursuant to Section 302 or 303.

(b) The spouse of either party was living and the marriage with that spouse was then in force and that spouse (1) was absent and not known to the party commencing the proceeding to be living for a period of five successive years immediately preceding the subsequent marriage for which the judgment of nullity is sought or (2) was generally reputed or believed by the party commencing the proceeding to be dead at the time the subsequent marriage was contracted.

(c) Either party was of unsound mind, unless the party of unsound mind, after coming to reason, freely cohabited with the other as his or her spouse.

(d) The consent of either party was obtained by fraud, unless the party whose consent was obtained by fraud afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as his or her spouse.

(e) The consent of either party was obtained by force, unless the party whose consent was obtained by force afterwards freely cohabited with the other as his or her spouse.

(f) Either party was, at the time of marriage, physically incapable of entering into the marriage state, and that incapacity continues, and appears to be incurable.

§ 2211. Limitations on obtaining judgment of nullity

A proceeding to obtain a judgment of nullity of marriage, for causes set forth in [Section 2210](#), must be commenced within the periods and by the parties, as follows:

(a) For causes mentioned in subdivision (a) of [Section 2210](#), by any of the following:

(1) The party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent.

(2) A parent, guardian, conservator, or other person having charge of the minor, at any time before the married minor has arrived at the age of legal consent.

(b) For causes mentioned in subdivision (b) of [Section 2210](#), by either of the following:

(1) Either party during the life of the other.

(2) The former spouse.

(c) For causes mentioned in subdivision (c) of [Section 2210](#), by the party injured, or by a relative or conservator of the party of unsound mind, at any time before the death of either party.

(d) For causes mentioned in subdivision (d) of [Section 2210](#), by the party whose consent was obtained by fraud, within four years after the discovery of the facts constituting the fraud.

(e) For causes mentioned in subdivision (e) of [Section 2210](#), by the party whose consent was obtained by force, within four years after the marriage.

(f) For causes mentioned in subdivision (f) of [Section 2210](#), by the injured party, within four years after the marriage.

§ 2212. Effect of judgment of nullity of marriage

(a) The effect of a judgment of nullity of marriage is to restore the parties to the status of unmarried persons.

(b) A judgment of nullity of marriage is conclusive only as to the parties to the proceeding and those claiming under them.

§ 2337. Severance and grant of early trial on issue of dissolution of status of marriage; Preliminary declaration of disclosure

(a) In a proceeding for dissolution of marriage, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) A preliminary declaration of disclosure with a completed schedule of assets and debts shall be served on the nonmoving party with the noticed motion unless it has been served previously, or unless the parties stipulate in writing to defer service of the preliminary declaration of disclosure until a later time.

(c) The court may impose upon a party any of the following conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in case of that party's death, an order of any of the following conditions continues to be binding upon that party's estate:

(1) The party shall indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party in connection with the division of the community estate that would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and any minor children as named dependents, so long as the party is eligible to do so. If at any time during this period the party is not eligible to maintain that coverage, the party shall, at the party's sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available. To the extent that coverage is not available, the party shall be responsible to pay, and shall demonstrate to the court's satisfaction the ability to pay, for the health and medical care for the other party and the minor children, to the extent that care

would have been covered by the existing insurance coverage but for the dissolution of marital status, and shall otherwise indemnify and hold the other party harmless from any adverse consequences resulting from the loss or reduction of the existing coverage. For purposes of this subdivision, "health and medical insurance coverage" includes any coverage for which the parties are eligible under any group or individual health or other medical plan, fund, policy, or program.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the other party's rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated therewith, to the extent that the other party would have been entitled to those benefits or elections as the spouse or surviving spouse of the party.

(6) The party shall indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(7)

(A) The court may make an order pursuant to paragraph (3) of subdivision (b) of [Section 5040 of the Probate Code](#), if appropriate, that a party maintain a beneficiary designation for a nonprobate transfer, as described in [Section 5000 of the Probate Code](#), for a spouse or domestic partner for up to one-half of or, upon a showing of good cause, for all of a nonprobate transfer asset until judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.

(B) Except upon a showing of good cause, this paragraph does not apply to any of the following:

(i) A nonprobate transfer described in [Section 5000 of the Probate Code](#) that was not created by either party or that was acquired by either party by gift, descent, or devise.

(ii) An irrevocable trust.

(iii) A trust of which neither party is the grantor.

(iv) Powers of appointment under a trust instrument that was not created by either party or of which neither party is a grantor.

(v) The execution and filing of a disclaimer pursuant to Part 8 (commencing with [Section 260](#)) of [Division 2 of the Probate Code](#).

(vi) The appointment of a party as a trustee.

(8) In order to preserve the ability of the party to defer the distribution of the Individual Retirement Account or annuity (IRA) established under [Section 408](#) or [408A of the Internal Revenue Code of 1986](#), as amended, (IRC) upon the death of the other party, the court may require that one-half, or all upon a showing of good cause, of the community interest in any IRA, by or for the benefit of the party, be assigned and transferred to the other party pursuant to [Section 408\(d\)\(6\) of the Internal Revenue Code](#). This paragraph does not limit the power granted pursuant to subdivision (g).

(9) Upon a showing that circumstances exist that would place a substantial burden of enforcement upon either party's community property rights or would eliminate the ability of the surviving party to enforce his or her community property rights if the other party died before the division and distribution or compliance with any court-ordered payment of any community property interest therein, including, but not limited to, a situation in which preemption under federal law applies to an asset of a party, or purchase by a bona fide purchaser has occurred, the court may order a specific security interest designed to reduce or eliminate the likelihood that a postmortem enforcement proceeding would be ineffective or unduly burdensome to the surviving party. For this purpose, those orders may include, but are not limited to, any of the following:

(A) An order that the party provide an undertaking.

(B) An order to provide a security interest by Qualified Domestic Relations Order from that party's share of a retirement plan or plans.

(C) An order for the creation of a trust as defined in paragraph (2) of subdivision (a) of [Section 82 of the Probate Code](#).

(D) An order for other arrangements as may be reasonably necessary and feasible to provide appropriate security in the event of the party's death before judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.

(E) If a retirement plan is not subject to an enforceable court order for the payment of spousal survivor benefits to the other party, an interim order requiring the party to pay or cause to be paid, and to post adequate security for the payment of, any survivor benefit that would have been payable to the other party on the death of the party but for the judgment granting a dissolution of the status of the marriage, pending entry of judgment on all remaining issues.

(10) Any other condition the court determines is just and equitable.

(d) Prior to, or simultaneously with, entry of judgment granting dissolution of the status of the marriage, all of the following shall occur:

(1) The party's retirement or pension plan shall be joined as a party to the proceeding for dissolution, unless joinder is precluded or made unnecessary by Title 1 of the federal Employee Retirement Income Security Act of 1974 ([29 U.S.C. Sec. 1001](#) et seq.), as amended (ERISA), or any other applicable law.

(2) To preserve the claims of each spouse in all retirement plan benefits upon entry of judgment granting a dissolution of the status of the marriage, the court shall enter one of the following in connection with the judgment for each retirement plan in which either party is a participant:

(A) An order pursuant to [Section 2610](#) disposing of each party's interest in retirement plan benefits, including survivor and death benefits.

(B) An interim order preserving the nonemployee party's right to retirement plan benefits, including survivor and death benefits, pending entry of judgment on all remaining issues.

(C) An attachment to the judgment granting a dissolution of the status of the marriage, as follows:

EACH PARTY (insert names and addresses) IS PROVISIONALLY AWARDED WITHOUT PREJUDICE AND SUBJECT TO ADJUSTMENT BY A SUBSEQUENT DOMESTIC RELATIONS ORDER, A SEPARATE INTEREST EQUAL TO ONE-HALF OF ALL BENEFITS ACCRUED OR TO BE ACCRUED UNDER THE PLAN (name each plan individually) AS A RESULT OF EMPLOYMENT OF THE OTHER PARTY DURING THE MARRIAGE OR DOMESTIC PARTNERSHIP AND PRIOR TO THE DATE OF SEPARATION. IN ADDITION, PENDING FURTHER NOTICE, THE PLAN SHALL, AS ALLOWED BY LAW, OR IN THE CASE OF A GOVERNMENTAL PLAN, AS ALLOWED BY THE TERMS OF THE PLAN, CONTINUE TO TREAT THE PARTIES AS MARRIED OR DOMESTIC PARTNERS FOR PURPOSES OF ANY SURVIVOR RIGHTS OR BENEFITS AVAILABLE UNDER THE PLAN TO THE EXTENT NECESSARY TO PROVIDE FOR PAYMENT OF AN AMOUNT EQUAL TO THAT SEPARATE INTEREST OR FOR ALL OF THE SURVIVOR BENEFIT IF AT THE TIME OF THE DEATH OF THE PARTICIPANT, THERE IS NO OTHER ELIGIBLE RECIPIENT OF THE SURVIVOR BENEFIT.

(e) The moving party shall promptly serve a copy of any order, interim order, or attachment entered pursuant to paragraph (2) of subdivision (d), and a copy of the judgment granting a dissolution of the status of the marriage, on the retirement or pension plan administrator.

(f) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

(g) If the party dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this section shall be enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable prior to the person's death.

§ 7540. Presumption arising from birth of child during marriage

(a) Except as provided in [Section 7541](#), the child of spouses who cohabited at the time of conception and birth is conclusively presumed to be a child of the marriage.

(b) The conclusive marital presumption in subdivision (a) does not apply if the court determines that the husband of the woman who gave birth was impotent or sterile at the time of conception and that the child was not conceived through assisted reproduction.

§ 7570. Legislative findings and declarations

(a) The Legislature hereby finds and declares as follows:

(1) There is a compelling state interest in establishing parentage for all children. Establishing parentage is the first step toward a child support award, which, in turn, provides children with equal rights and access to benefits, including, but not limited to, social security, health insurance, survivors' benefits, military benefits, and inheritance rights.

(2) A simple administrative system allowing for establishment of voluntary parentage will result in a significant increase in the ease of establishing parentage, a significant increase in parentage establishment, an increase in the number of children who have greater access to child support and other benefits, and a significant decrease in the time and money required to establish parentage due to the removal of the need for a lengthy and expensive court process to determine and establish parentage and is in the public interest.

(b) This section shall become operative on January 1, 2020.

§ 7600. Citation of part

This part may be cited as the Uniform Parentage Act.

§ 7601. “Natural parent” and “parent and child relationship”

(a) “Natural parent” as used in this code means a nonadoptive parent established under this part, whether biologically related to the child or not.

(b) “Parent and child relationship” as used in this part means the legal relationship existing between a child and the child’s natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. The term includes the mother and child relationship and the father and child relationship.

(c) This part does not preclude a finding that a child has a parent and child relationship with more than two parents.

(d) For purposes of state law, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, benefits, responsibilities, obligations, and duties of parents, any reference to

two parents shall be interpreted to apply to every parent of a child where that child has been found to have more than two parents under this part.

§ 7602. Relationship not dependent on marriage

The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

§ 7630. Who may bring action; When action may be brought; Consolidation of proceedings; Joinder of parties; Service; Notice of proceedings

(a) A child, the child's natural mother, a person presumed to be the child's parent under subdivision (a), (b), or (c) of [Section 7611](#), a person seeking to be adjudicated as a parent or donor under [Section 7613](#), an adoption agency to whom the child has been relinquished, or a prospective adoptive parent of the child may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the parent and child relationship presumed under subdivision (a), (b), or (c) of [Section 7611](#), or established pursuant to [Section 7613](#).

(2) For the purpose of declaring the nonexistence of the parent and child relationship presumed under subdivision (a), (b), or (c) of [Section 7611](#) only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, parentage of the child by another person may be determined in the same action, if that person has been made a party.

(3) At any time for the purpose of declaring the nonexistence of the parent and child relationship of a donor under [Section 7613](#).

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the parent and child relationship presumed under subdivision (d) or (e) of [Section 7611](#).

(c) Except as to cases coming within Chapter 1 (commencing with [Section 7540](#)) of Part 2 or when paragraph (2) of subdivision (a) applies, an action to determine parentage may be brought by the child, a personal representative of the child, the Department of Child Support Services, a presumed parent or the personal representative or a parent of that presumed parent if that parent has died or is a minor, or, when the natural mother is the only presumed parent or an action under [Section 300 of the Welfare and Institutions Code](#) or adoption is pending, a man alleged or claiming to be the father or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

[...]

§ 8617. Termination of existing parents' duties; Waiver of termination

(a) Except as provided in subdivision (b), the existing parent or parents of an adopted child are, from the time of the adoption, relieved of all parental duties towards, and all responsibility for, the adopted child, and have no right over the child.

(b) The termination of the parental duties and responsibilities of the existing parent or parents under subdivision (a) may be waived if both the existing parent or parents and the prospective adoptive parent or parents sign a waiver at any time prior to the finalization of the adoption. The waiver shall be filed with the court.

(c) This section applies to all adoptions except intercountry adoptions governed by Chapter 4 (commencing with [Section 8900](#)).

§ 7612. Rebuttal of parentage presumption; Controlling presumption if conflict; Finding that more than two persons are parents

(a) Except as provided in Chapter 1 (commencing with [Section 7540](#)) and Chapter 3 (commencing with [Section 7570](#)) of Part 2, a presumption under [Section 7611](#) is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence.

(b) If two or more presumptions arise under [Section 7611](#) that conflict with each other, or if one or more presumptions under [Section 7611](#) conflict with a claim by a person identified as a genetic parent pursuant to [Section 7555](#), the presumption that on the facts is founded on the weightier considerations of policy and logic controls. If one of the presumed parents is also a presumed parent under [Section 7540](#), the presumption arising under [Section 7540](#) may only be rebutted pursuant to [Section 7541](#).

(c) In an appropriate action, a court may find that more than two persons with a claim to parentage under this division are parents if the court finds that recognizing only two parents would be detrimental to the child. In determining detriment to the child, the court shall consider all relevant factors, including, but not limited to, the harm of removing the child from a stable placement with a parent who has fulfilled the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment to the child does not require a finding of unfitness of any of the parents or persons with a claim to parentage.

(d) Unless a court orders otherwise after making the determination specified in subdivision (c), a presumption under [Section 7611](#) is rebutted by a judgment establishing parentage of the child by another person.

(e) A person's offer or refusal to sign a voluntary declaration of parentage may be considered as a factor, but shall not be determinative, as to the issue of legal parentage in a proceeding regarding the establishment or termination of parental rights.

(f) This section shall become operative on January 1, 2020.

§ 8617. Termination of existing parents' duties; Waiver of termination

(a) Except as provided in subdivision (b), the existing parent or parents of an adopted child are, from the time of the adoption, relieved of all parental duties towards, and all responsibility for, the adopted child, and have no right over the child.

(b) The termination of the parental duties and responsibilities of the existing parent or parents under subdivision (a) may be waived if both the existing parent or parents and the prospective adoptive parent or parents sign a waiver at any time prior to the finalization of the adoption. The waiver shall be filed with the court.

(c) This section applies to all adoptions except intercountry adoptions governed by Chapter 4 (commencing with [Section 8900](#)).