

RESOLUTION 5-07-2002

DIGEST

Domestic Partner Registration: Confidentiality of Residence Addresses

Amends Family Code section 298.5 to provide that the residence address listed in a domestic partner registration shall not be disclosed except in limited circumstances.

RESOLUTIONS COMMITTEE RECOMMENDATION

DISAPPROVE

Reasons:

This resolution amends Family Code section 298.5 to provide that the residence address listed in a domestic partner registration shall not be disclosed except in limited circumstances. This resolution should be disapproved because it gives registered domestic partners rights greater than those of married persons and because domestic partners already have a means of making their residence address confidential.

Both domestic partner registration and marriage certificate forms require applicants to list a residence address. The address information from both is equally available to the public. (See, 84 Ops. Atty. Gen. 55 (2001) [residence address information on a marriage certificate is public ly available].) The public, particularly employers, needs access to that information. For instance, employers may need to verify that an employee asking for insurance coverage for a spouse is actually married to that person. Likewise, an employer may need to verify that an employee asking for insurance coverage for a domestic partner is actually registered with that person. (Providing insurance and other benefits to domestic partners was one of the broad purposes for which the domestic partner statute was passed). Part of verifying that a domestic partner is a bona fide registered partner is making sure the registration states the partners reside at the same address and, thus, meet one of the key criteria for domestic partner registration. (Fam. Code, § 298.5.)

The proponent implies that registered domestic partners have a greater need to keep their address private than married couples. Family Code section 298.5 is very new. We do not yet know whether treating registered partners' information the same as married couples' information will facilitate harassment or violence against gays and lesbians. We also do not yet know whether significant numbers of domestic partners will decline to register. The initial position should be parity – what the proponents of domestic partner registration seek – with later adjustments if the burden of parity is too great.

In the meantime, domestic partners who wish to make their residence address confidential can do so (as can married couples) by making the appropriate application under Government Code section 6255 and proving that the public interest in withholding the record outweighs the public interest served by disclosure.

SECTION/COMMITTEE REPORT

FAMILY LAW SECTION EXECUTIVE COMMITTEE

Recommendation: Approve in Principle

Reasons: The Committee agrees with the reasoning set forth by the proponent.

TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates recommends that legislation be sponsored to amend Family Code section 298.5 to read as follows:

- 1 §298.5
- 2 (a) Two persons desiring to become domestic partners may complete and file a Declaration of
- 3 Domestic Partnership with the Secretary of State.
- 4 (b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those
- 5 partnerships, and shall return a copy of the registered form to the domestic partners at the address provided
- 6 by the domestic partners as their common residence. The common residence address provided by the
- 7 domestic partners shall be considered confidential, and shall not be disclosed to any person, except a court, a
- 8 law enforcement agency, or any governmental agency to which, under any provision of law, information is
- 9 required to be furnished from state Domestic Partnership records.

10 (c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of
11 Domestic Partnership until at least six months after the date that a Notice of Termination of Domestic
12 Partnership was filed with the Secretary of State pursuant to subdivision (b) of Section 299 in connection
13 with the termination of the most recent domestic partnership. This prohibition does not apply if the previous
14 domestic partnership ended because one of the partners died or married.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

STATEMENT OF REASONS

Existing Law: Requires individuals wishing to be registered as Domestic Partners to provide their joint residence address, and makes such address a public record subject to inspection by any interested party.

This Resolution: Amends Family Code section 298.5 to provide that the residence address disclosed by Domestic Partnership registrants is to be considered confidential, and may be disclosed only to appropriate government agencies.

The Problem: Unlike married couples, individuals who wish to be registered domestic partners in California must disclose their common residence address. The California Attorney General has issued an opinion stating, "The common residence address listed on a declaration of domestic partnership is subject to public disclosure by the Secretary of State, unless on the facts of a particular case, the public interest served by not making the information public clearly outweighs the public interest served by disclosure." (84 Ops. Cal. Atty. Gen. 55.) In this age of continuing erosion of privacy rights, it is unfair to require people who wish to join in domestic partnership to make their home addresses public information. Furthermore, the absence of protection of these individuals' privacy will deter registrations, thereby undermining the effectiveness of the domestic partnership law itself. Individuals who rely on home address confidentiality (such as celebrities, public officials, peace officers, etc.) will be put in the difficult position of choosing between their right to privacy and their right to enter into a domestic partnership. The proposed amendment resolves this problem, but retains the ability to access the information for important governmental purposes.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

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