

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Probate and Mental Health Advisory Committee
Hon. Thomas W. Stoever, Chair;
Douglas C. Miller, Committee Counsel, 415-865-7535,
douglas.miller@jud.ca.gov

DATE: August 9, 2004

SUBJECT: Proposal to revise *Petition for Probate*, effective January 1, 2005.
(Revise form DE-111) (Action Required)

Issue Statement

The *Petition for Probate*, form DE-111, was revised by circulating order effective August 17, 2003 to implement the graduated filing fee imposed on decedents' estates commenced after that date by an amendment to Government Code section 26827.¹ The form needs further revision to clarify the required estate valuation.

Recommendation

The Probate and Mental Health Advisory Committee recommends that form DE-111 be revised, effective January 1, 2005, to clarify an instruction concerning estate valuation for purposes of the filing fee, to conform to the requirement of the law that the character and the estimated value of the assets of the estate be stated in every case, and to make additional changes in the form that will increase its clarity and enhance its ease of use by practitioners, court staff, and judicial officers.

Attached at pages 6–9 is a copy of the proposed revised form DE-111.

Attached at pages 10–12 is a copy of existing form DE-111.

¹ Stats. 2003, ch. 159 (AB 1759), §§ 9, 27, and 29.

Rationale for Recommendation

This proposal would revise the *Petition for Probate* in three respects. First, the instructions for completion of item 3a(9) on the first page of the form would be revised to clarify that this item is to be selected and the estimated dollar value of the entire estate stated in the space provided when the estate is valued at \$3.5 million or more. Item 3a(9), part of the new item 3 added to the form in 2003 to provide for an estimate of the value of the estate for graduated filing fee purposes, requests an estimate of the total value of the estate where it is \$3.5 million or more, the highest fee category in the filing fee statute. The instruction for item 3a(9) in the current form requests the estimated estate value but does not advise when that item is to be selected and completed.

The second change is a complete reorganization and revision of item 4c on page 2 of the form. This item calls for a second estimate of estate value. Item 4c has two purposes. The first purpose is to elicit information that will enable the court to determine the amount of the personal representative's bond if a bond will be required. The second purpose is to comply with Probate Code section 8002(a)(4), which requires every petition commencing a decedent's estate proceeding to state the character—real or personal—and estimated value of estate property, whether or not a bond will be required.

The caption for item 4c in the current form states that its purpose is to provide information necessary to set the amount of the bond. Many practitioners assume that this is its only purpose; the item is often left blank if the petitioner or his or her attorney believes that a bond will not be required, such as when the decedent's will waives bond². This incorrect assumption is inadvertently supported by the caption.

The estimates of estate values in items 3 and 4 of the petition are both necessary because they are estimates of different assets for different purposes.³ Moreover, the estimate in item 3 for filing fee purposes cannot be used for bond-setting purposes because it is expressed in ranges of values that do not provide an accurate basis for setting the amount of the bond.

² Item 4c was in the form (as item 3c) for many years before its August 2003 revision.

³ Estate value for filing fee purposes includes the gross fair market value of estate real property but does not include estimated estate income. Depending on whether the petition requests no, limited, or full independent powers of estate administration, the value of the estate for bond-setting purposes does not include the value of estate real property or includes only the value of the decedent's interest in that property, its value net of encumbrances. Estate value for bond-setting purposes also includes a year's estimated income from the estate. See Government Code section 26827; Probate Code sections 8482, 10402–10403, and 10453; and California Rules of Court, rule 7.204(c)(1) and (3).

Revised item 4c would clearly require statement of the character and value of all estate property in every proceeding, including those in which the decedent's will waives bond. The item would also always require statement of the gross value of estate real property, the amount of encumbrances against that value, and the resulting net value. The appropriate value of the estate for bond-setting purposes would thus always be readily ascertainable from item 4c and the requirement of section 8002 for a statement of the character and value of the entire estate would always be satisfied.

The third proposed revision of the form would increase its length from three to four pages. This increase should be offset in many cases by additional space provided for responses to items in several places in the form where space had been at a premium, thereby decreasing reliance on attachments added to the petition.⁴ More room would be provided for text throughout the form generally to make it easier for petitioners or their attorneys to complete, and for persons interested in an estate, court staff, and judicial officers to read.

Almost a full page would be provided for the petitioner to list the heirs and beneficiaries of the estate (item 9 on page 4). In many cases all of the heirs or beneficiaries could be listed on page 4 without an attached page, thereby reducing the overall length of the petition and keeping the names of all the listed persons in one place.⁵

Over many years the *Petition for Probate* became crowded and difficult to complete, read, and understand as additional allegations were added or expanded although the form was not expanded beyond two pages. This actually caused longer rather than shorter petitions because parties were forced to resort to attached pages in most situations. This problem was only partially alleviated in the 2003 revision, which increased the form to three pages.

Alternative Actions Considered

No alternative other than revision of the form is possible to correct unclear or even misleading instructions or to ensure that the form requests all of the information required by law. The advisory committee considered retaining the form's three page

⁴ Compare item 2d(3) on page 1, and items 4e(2) and 4f(1)(d) on page 2 of the current and revised forms.

⁵ The persons who must be listed in item 9 of the *Petition for Probate* are those who must be served with a *Notice of Petition to Administer Estate*, Judicial Council form DE-121. (Prob. Code, §§ 8002(a)(2), 8110.) The court must verify that all persons entitled to service of a Notice have been served. It does this by comparing the names listed in item 9 of the petition with the names mentioned in the decedent's will and codicils, if any, and with the names listed in the completed proof of service on the second page of the filed Notice. This procedure is likely to be much more accurately and efficiently performed if the list of persons in item 9 of the petition is complete on one page.

length, but elected to increase the form to four pages because it believes that the benefit of the longer form to practitioners, the public, and the courts outweighs the burden of adding the fourth page.

Comments From Interested Parties

This proposal was circulated to a special list of judicial officers, probate examiners or attorneys, and other court staff interested in probate matters, and probate interest sections of local bar associations, in addition to the AOC's standard list of interested court executives, individuals, and organizations.

A total of seven comments were received in response to the Invitation to Comment. Six commentators approved of the proposed revisions without specific comments. One commentator, Ms. Heather Hedquist, an attorney speaking on behalf of ProDoc, Inc., a forms publisher, pointed out that instructions to item 6a on page 3 of the form are confusing. Item 6a calls for statements about a decedent's surviving spouse (items (1) or (2)) or domestic partner (items (3) or (4)) and children or issue of deceased children (items (5)–(8)).

The instructions in the draft of the form that was circulated for comment requested the petitioner to make statements about the decedent's spouse or his or her domestic partner. Ms. Hedquist pointed out that, although a decedent cannot be survived by a spouse and a domestic partner, the petitioner must make the appropriate statement about the decedent's spouse and the decedent's domestic partner.⁶

The advisory committee agrees with Ms. Hedquist's comment. It has revised the instructions for item 6a in the attached draft to call for the petitioner to check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8).

A chart showing the public comments received and responses from the advisory committee is attached at pages 13–15.

⁶ If the petitioner checks item 6a(1), indicating that the decedent was survived by a spouse, he or she must also check item 6a(4), indicating that the decedent was not survived by a registered domestic partner. If the petitioner checks item 6a(3), indicating that the decedent was survived by a registered domestic partner, he or she must also check item 6a(2), indicating that the decedent was not survived by a spouse. Thus one alternative in each set—items 6a(1) or (2) and 6a(3) or (4)—must always be checked.

Implementation Requirements and Costs

This revision will incur increased costs associated with the revision of any form, in this case including costs associated with an increase in the form's length from three to four pages. It is anticipated, however, that the form will actually produce shorter filed petitions for probate because the need for attached pages will be reduced. This should result in overall savings in time and paper for petitioners to complete the forms and storage costs for courts to file and store them. The form's increased clarity and ease of use should further decrease the expense of preparing and reading the revised form.

Attachments

ESTATE OF (Name): _____	CASE NUMBER: _____
DECEDENT	

4. a. Decedent died on (date): _____ at (place): _____
- (1) a resident of the county named above.
- (2) a nonresident of California and left an estate in the county named above located at (specify location permitting publication in the newspaper named in item 1): _____
- b. Street address, city, and county of decedent's residence at time of death (specify): _____
- c. **Character and estimated value of the property of the estate (complete in all cases):**
- | | | |
|---|--------------|--|
| (1) Personal property: | \$ | |
| (2) Annual gross income from | | |
| (a) real property: | \$ | |
| (b) personal property: | \$ | |
| (3) Subtotal (add (1) and (2)): | \$ | |
| (4) Gross fair market value of real property: | \$ | |
| (5) (Less) Encumbrances: | \$ (_____) | |
| (6) Net value of real property: | \$ | |
| (7) Total (add (3) and (6)): | \$ | |
- d. (1) Will waives bond. Special administrator is the named executor, and the will waives bond.
- (2) All beneficiaries are adults and have waived bond, and the will does not require a bond. (Affix waiver as Attachment 4d(2).)
- (3) All heirs at law are adults and have waived bond. (Affix waiver as Attachment 4d(3).)
- (4) Sole personal representative is a corporate fiduciary or an exempt government agency.
- e. (1) Decedent died intestate.
- (2) Copy of decedent's will dated: _____ codicil dated (specify for each): _____ are affixed as Attachment 4e(2).
(Include typed copies of handwritten documents and English translations of foreign-language documents.)
 The will and all codicils are self-proving (Prob. Code, § 8220).
- f. **Appointment of personal representative (check all applicable boxes):**
- (1) Appointment of executor or administrator with will annexed:
- (a) Proposed executor is named as executor in the will and consents to act.
- (b) No executor is named in the will.
- (c) Proposed personal representative is a nominee of a person entitled to Letters. (Affix nomination as Attachment 4f(1)(c).)
- (d) Other named executors will not act because of death declination
 other reasons (specify): _____
- Continued in Attachment 4f(1)(d).
- (2) Appointment of administrator:
- (a) Petitioner is a person entitled to Letters. (If necessary, explain priority in Attachment 4f(2)(a).)
- (b) Petitioner is a nominee of a person entitled to Letters. (Affix nomination as Attachment 4f(2)(b).)
- (c) Petitioner is related to the decedent as (specify): _____
- (3) Appointment of special administrator requested. (Specify grounds and requested powers in Attachment 4f(3).)

ESTATE OF (Name): _____	CASE NUMBER: _____
DECEDENT	

4. g. Proposed personal representative is a
 resident of California.
 nonresident of California (*specify permanent address*):
- resident of the United States.
 nonresident of the United States.
5. Decedent's will does not preclude administration of this estate under the Independent Administration of Estates Act.
6. a. Decedent is survived by (*check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8)*)
- (1) spouse.
- (2) no spouse as follows:
(a) divorced or never married.
(b) spouse deceased.
- (3) registered domestic partner.
- (4) no registered domestic partner.
(See Fam. Code, § 297.5(c); Prob. Code, §§ 37(b), 6401(c), and 6402.)
- (5) child as follows:
(a) natural or adopted.
(b) natural adopted by a third party.
- (6) no child.
- (7) issue of a predeceased child.
- (8) no issue of a predeceased child.
- b. Decedent is is not survived by a stepchild or foster child or children who would have been adopted by decedent but for a legal barrier. *(See Prob. Code, § 6454.)*
7. (*Complete if decedent is survived by (1) a spouse or registered domestic partner but no issue (only a or b apply), or (2) no spouse, registered domestic partner, or issue. (Check the first box that applies):*)
- a. Decedent is survived by a parent or parents who are listed in item 9.
- b. Decedent is survived by issue of deceased parents, all of whom are listed in item 9.
- c. Decedent is survived by a grandparent or grandparents who are listed in item 9.
- d. Decedent is survived by issue of grandparents, all of whom are listed in item 9.
- e. Decedent is survived by issue of a predeceased spouse, all of whom are listed in item 9.
- f. Decedent is survived by next of kin, all of whom are listed in item 9.
- g. Decedent is survived by parents of a predeceased spouse or issue of those parents, if both are predeceased, all of whom are listed in item 9.
- h. Decedent is survived by no known next of kin.
8. (*Complete only if no spouse or issue survived decedent.*)
- a. Decedent had no predeceased spouse.
- b. Decedent had a predeceased spouse who
- (1) died not more than 15 years before decedent and who owned an interest in **real property** that passed to decedent,
- (2) died not more than five years before decedent and who owned **personal property** valued at \$10,000 or more that passed to decedent,
(If you checked (1) or (2), check only the first box that applies):
- (a) Decedent is survived by issue of a predeceased spouse, all of whom are listed in item 9.
- (b) Decedent is survived by a parent or parents of the predeceased spouse who are listed in item 9.
- (c) Decedent is survived by issue of a parent of the predeceased spouse, all of whom are listed in item 9.
- (d) Decedent is survived by next of kin of the decedent, all of whom are listed in item 9.
- (e) Decedent is survived by next of kin of the predeceased spouse, all of whom are listed in item 9.
- (3) neither (1) nor (2) apply.

ESTATE OF <i>(Name)</i> : _____	CASE NUMBER: _____
DECEDENT	

9. Listed below are the names, relationships to decedent, ages, and addresses, so far as known to or reasonably ascertainable by petitioner, of (1) all persons mentioned in decedent's will or any codicil, whether living or deceased; (2) all persons named or checked in items 2, 6, 7, and 8; and (3) all beneficiaries of a trust named in decedent's will or any codicil in which the trustee and personal representative are the same person.

<u>Name and relationship to decedent</u>	<u>Age</u>	<u>Address</u>
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Continued on Attachment 9.

10. Number of pages attached: _____

Date:

(TYPE OR PRINT NAME OF ATTORNEY)	▶	(SIGNATURE OF ATTORNEY)*
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* (Signatures of all petitioners are also required. All petitioners must sign, but the petition may be verified by any one of them (Prob. Code, §§ 1020, 1021; Cal. Rules of Court, rule 7.103).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PETITIONER)	▶	(SIGNATURE OF PETITIONER)
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(TYPE OR PRINT NAME OF PETITIONER)	▶	(SIGNATURE OF PETITIONER)
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Signatures of additional petitioners follow last attachment.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <hr/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
ESTATE OF (Name): _____	DECEDENT
PETITION FOR <input type="checkbox"/> Probate of Will and for Letters Testamentary <input type="checkbox"/> Probate of Will and for Letters of Administration with Will Annexed <input type="checkbox"/> Letters of Administration <input type="checkbox"/> Letters of Special Administration <input type="checkbox"/> with general powers <input type="checkbox"/> Authorization to Administer Under the Independent Administration of Estates Act <input type="checkbox"/> with limited authority	CASE NUMBER: HEARING DATE: DEPT.: _____ TIME: _____

1. Publication will be in (specify name of newspaper):
 a. Publication requested. b. Publication to be arranged.
2. **Petitioner** (name of each): **requests**
 a. decedent's will and codicils, if any, be admitted to probate.
 b. (name):
 be appointed (1) executor (3) administrator
 (2) administrator with will annexed (4) special administrator with general powers
 and Letters issue upon qualification.
 c. that full limited authority be granted to administer under the Independent Administration of Estates Act.
 d. (1) bond not be required for the reasons stated in item 4d.
 (2) \$ _____ bond be fixed. It will be furnished by an admitted surety insurer or as otherwise provided by law.
 (Specify reasons in Attachment 2 if the amount is different from the maximum required by Prob. Code § 8482.)
 (3) \$ _____ in deposits in a blocked account be allowed. Receipts will be filed. (Specify institution and location):
3. a. **Estimated value of the estate for filing fee purposes** (Complete in all cases. The estimated value of the estate is the fair market value of the real and personal property of the estate at the date of the decedent's death, without reduction for encumbrances. See Gov. Code, § 26827.):
 (1) Less than \$250,000 (6) At least \$1.5 million and less than \$2 million
 (2) At least \$250,000 and less than \$500,000 (7) At least \$2 million and less than \$2.5 million
 (3) At least \$500,000 and less than \$750,000 (8) At least \$2.5 million and less than \$3.5 million
 (4) At least \$750,000 and less than \$1 million (9) \$ _____ *
 (5) At least \$1 million and less than \$1.5 million * (Specify total estimated value of estate.)
- b. This petition is not the first petition for appointment of a personal representative with general powers filed in this proceeding. The first petition was filed on (date): _____
4. a. Decedent died on (date): _____ at (place): _____
 (1) a resident of the county named above.
 (2) a nonresident of California and left an estate in the county named above located at (specify location permitting publication in the newspaper named in item 1): _____
- b. Street address, city, and county of decedent's residence at time of death (specify): _____

(Continued on reverse)

ESTATE OF (Name): _____	CASE NUMBER: _____
DECEDENT	

4. c. Character and estimated value of the property of the estate for bond purposes:

- (1) Personal property: \$
- (2) Annual gross income from
 - (a) real property: \$
 - (b) personal property: \$
- Total:** \$
- (3) Real property: \$

(If full authority under the Independent Administration of Estates Act is requested, state the fair market value of the real property less encumbrances.)

- d. (1) Will waives bond. Special administrator is the named executor and the will waives bond.
 - (2) All beneficiaries are adults and have waived bond, and the will does not require a bond. *(Affix waiver as Attachment 4d(2).)*
 - (3) All heirs at law are adults and have waived bond. *(Affix waiver as Attachment 4d(3).)*
 - (4) Sole personal representative is a corporate fiduciary or an exempt government agency.
 - e. (1) Decedent died intestate.
 - (2) Copy of decedent's will dated: _____ codicils dated: _____ are affixed as Attachment 4e(2).
(Include in Attachment 4e(2) a typed copy of a handwritten will and a translation of a foreign language will.)
 The will and all codicils are self-proving (Prob. Code, § 8220).
 - f. **Appointment of personal representative (check all applicable boxes):**
 - (1) Appointment of executor or administrator with will annexed:
 - (a) Proposed executor is named as executor in the will and consents to act.
 - (b) No executor is named in the will.
 - (c) Proposed personal representative is a nominee of a person entitled to Letters. *(Affix nomination as Attachment 4(1)(c).)*
 - (d) Other named executors will not act because of death declination other reasons *(specify in Attachment 4f(1)(d)).*
 - (2) Appointment of administrator:
 - (a) Petitioner is a person entitled to Letters. *(If necessary, explain priority in Attachment 4f(2)(a).)*
 - (b) Petitioner is a nominee of a person entitled to Letters. *(Affix nomination as Attachment 4f(2)(b).)*
 - (c) Petitioner is related to the decedent as *(specify):*
 - (3) Appointment of special administrator requested. *(Specify grounds and requested powers in Attachment 4f(3).)*
 - g. Proposed personal representative is a resident of California nonresident of California *(affix statement of permanent address as Attachment 4g).* resident of the United States nonresident of the United States.
5. Decedent's will does not preclude administration of this estate under the Independent Administration of Estates Act.
6. a. The decedent is survived by *(check at least one box in each of items (1)-(4)).*
- (1) spouse no spouse as follows: divorced or never married spouse deceased
 - (2) domestic partner no domestic partner *(See Prob. Code, §§ 37(b), 6401(c), and 6402.)*
 - (3) child as follows: natural or adopted natural adopted by a third party no child
 - (4) issue of a predeceased child no issue of a predeceased child
- b. Decedent is is not survived by a stepchild or foster child or children who would have been adopted by decedent but for a legal barrier. *(See Prob. Code, § 6454.)*
7. *(Complete if decedent was survived by (1) a spouse or domestic partner but no issue (only a or b apply), or (2) no spouse, domestic partner, or issue. Check the first box that applies):*
- a. Decedent is survived by a parent or parents who are listed in item 9.
 - b. Decedent is survived by issue of deceased parents, all of whom are listed in item 9.
 - c. Decedent is survived by a grandparent or grandparents who are listed in item 9.
 - d. Decedent is survived by issue of grandparents, all of whom are listed in item 9.
 - e. Decedent is survived by issue of a predeceased spouse, all of whom are listed in item 9.
 - f. Decedent is survived by next of kin, all of whom are listed in item 9.
 - 9. Decedent is survived by parents of a predeceased spouse or issue of those parents, if both are predeceased, all of whom are listed in item 9.
 - h. Decedent is survived by no known next of kin.

ESTATE OF (Name): _____	CASE NUMBER: _____
DECEDENT	

8. (Complete only if no spouse or issue survived decedent.) Decedent had no predeceased spouse had a predeceased spouse who (1) died not more than 15 years before decedent owning an interest in **real property** that passed to decedent, (2) died not more than five years before decedent owning **personal property** valued at \$10,000 or more that passed to decedent, (3) neither (1) nor (2) apply. (If you checked (1) or (2), check only the first box that applies):

- a. Decedent is survived by issue of a predeceased spouse, all of whom are listed in item 9.
- b. Decedent is survived by a parent or parents of the predeceased spouse who are listed in item 9.
- c. Decedent is survived by issue of a parent of the predeceased spouse, all of whom are listed in item 9.
- d. Decedent is survived by next of kin of the decedent, all of whom are listed in item 9.
- e. Decedent is survived by next of kin of the predeceased spouse, all of whom are listed in item 9.

9. Listed below are the names, relationships, ages, and addresses, so far as known to or reasonably ascertainable by petitioner, of (1) all persons named in decedent's will and codicils, whether living or deceased; (2) all persons named or checked in items 2, 6, 7, and 8; and (3) all beneficiaries of a devisee trust in which the trustee and personal representative are the same person.

Name and Relationship	Age	Address
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Continued on Attachment 9.

10. Number of pages attached: _____

Date:

* (Signatures of all petitioners also required. (Prob. Code, § 1020, California Rules of Court, rule 7.103).)

▶ _____
(SIGNATURE OF ATTORNEY*)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PETITIONER)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PETITIONER)

Comments for Proposal SPR04-34
Form DE-111, *Petition for Probate*

	Commentator	Position	Comment on behalf of group?	Comment	Probate and Mental Health Advisory Committee's Response
1.	Ms. Sandy Almansa Supervising Legal Clerk II Superior Court of California County of Stanislaus 1100 I Street Modesto, CA 95353-1098	A	N	Agree with proposed changes.	No response necessary
2.	Ms. Mary Majich Davis Chief Deputy Executive Officer Superior Court of California County of San Bernardino 172 W. 3rd St., 2nd Floor San Bernardino, CA 92415	A	N	Agree with proposed changes. The proposed changes are consistent with the way our court has been interpreting the "new" graduated filing fee.	No response necessary
3.	Mr. Robert Dimitrijevič Court Probate Examiner Superior Court of California County of San Luis Obispo 1035 Palm Street San Luis Obispo, CA, 93401	A	N	Agree with proposed changes.	No response necessary
4.	Ms. Heather Hedquist Attorney ProDoc, Inc. 962 Coronado Boulevard Universal City, TX 78148-3228	AM	Y	We have a question about the instructions to item 6a, on page 3 of the form. That instruction would read in the proposed revised form as follows: <i>“(check items (1) or (2), or (3) or (4), and all applicable items (5)–(8))”</i> Items (1) and (2) refer to the presence or absence of a	The advisory committee agrees with this comment. It proposes that the instructions for item 6a be revised to read: <i>“(check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8))”</i> (Bold text added here for emphasis.) Items (5) and (6), and (7) and (8), like

Comments for Proposal SPR04-34
Form DE-111, *Petition for Probate*

	Commentator	Position	Comment on behalf of group?	Comment	Probate and Mental Health Advisory Committee's Response
				decedent's spouse. Items (3) and (4) refer to the presence or absence of a decedent's domestic partner. A decedent survived by a spouse cannot be survived by a domestic partner; a person survived by a domestic partner cannot be survived by a spouse. This means that if item (1) is checked, item (4) should also be checked, and if item (3) is checked, item (2) should also be checked. Doesn't this mean that the instruction calling for responses to items (1) or (2) or (3) or (4) is misleading?	items (1) and (2), and (3) and (4), are inconsistent alternatives that require the disjunctive "or." They concern, respectively, a decedent's surviving children and issue of predeceased children.
5.	Ms. Kim Hubbard President Orange County Bar Association P.O. Box 17777 Irvine, CA 92623-7777	A	Y	Agree with proposed changes.	No response necessary
6.	Ms. Margaret Middleton Probate Examiner Superior Court of California County of Stanislaus 800 11th Street, Room 221 Modesto, CA 95354	A	N	Agree with proposed changes.	No response necessary
7.	Ms. Tina Rasnow SHLA Center Coordinator	A	N	I don't have sufficient experience with this area of law to meaningfully critique the form.	No response necessary

Comments for Proposal SPR04-34
Form DE-111, *Petition for Probate*

	Commentator	Position	Comment on behalf of group?	Comment	Probate and Mental Health Advisory Committee's Response
	Superior Court of California Conty of Ventura 800 So. Victoria Avenue Ventura, CA 93009				