



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 13, 2011

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**Title**

Family Law: Permission for Minors to Enter into Domestic Partnerships

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2012

**Rules, Forms, Standards, or Statutes Affected**

Revise forms FL-910 and FL-915

**Date of Report**

November 10, 2011

**Recommended by**

Family and Juvenile Law Advisory Committee

Hon. Kimberly J. Nystrom-Geist, Cochair

Hon. Dean Stout, Cochair

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### Executive Summary

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2012, revise two forms to implement new Family Code section 297.1, which permits a person under the age of 18 to enter into a domestic partnership if the minor obtains permission of a parent or guardian and a court order and meets the legal requirements for filing a Declaration of Domestic Partnership with the Secretary of State.

### Recommendation

To implement statutory changes that take effect under Family Code section 297.1 on January 1, 2012, the Family and Juvenile Law Advisory Committee recommends revising forms FL-910 and FL-915, also effective January 1, 2012, as follows:

1. *Request of Minor to Marry* (form FL-910) is renamed *Request of Minor to Marry or Establish a Domestic Partnership* and revised to serve as a dual-purpose form for minors requesting a court order either to marry or to establish a domestic partnership.
2. *Order on Request of Minor to Marry* (form FL-915) is renamed *Order on Request of Minor to Marry or Establish a Domestic Partnership* and revised to serve as a dual-purpose form for orders granting either type of request.

The proposed revised forms are attached at pages 4–5.

### **Previous Council Action**

The Judicial Council adopted *Request of Minor to Marry* (form FL-910) and *Order on Request of Minor to Marry* (form FL-915), effective January 1, 2009, as required by the enactment of Family Code sections 302–304.

### **Rationale for Recommendation**

On October 9, 2011, Governor Edmund G. Brown, Jr., signed Senate Bill 651 (Stats. 2011, ch. 721),<sup>1</sup> which becomes effective January 1, 2012. SB 651 enacts Family Code section 297.1 to permit a person under the age of 18 years and his or her proposed domestic partner to establish a domestic partnership if the minor obtains permission of a parent or guardian and a court order and otherwise meets the requirements under Family Code section 297 for filing a Declaration of Domestic Partnership.

These statutory changes create situations not currently addressed by Judicial Council forms. The revision of existing forms FL-910 and FL-915, effective January 1, 2012, will allow minors seeking to establish a domestic partnership to access the court on the effective date of Family Code section 297 and 297.1. Both forms are optional forms. FL-910 is intended to assist litigants and the courts by providing the pleading for litigants who are often self-represented. Form FL-915, the court order, is intended for the court’s convenience.

### **Comments, Alternatives Considered, and Policy Implications**

The invitation to comment, *Family Law: Domestic Partnerships and Same Sex Marriages* (SPR11-16), was circulated during a special cycle from October 21 to November 1, 2011.<sup>2</sup> Given such a short comment period, in addition to being posted on the California Courts website, the invitation to comment was sent to a targeted mailing list that included appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers,

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<sup>1</sup> The text of SB 651 can be found at [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0651-0700/sb\\_651\\_bill\\_20111009\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0651-0700/sb_651_bill_20111009_chaptered.pdf).

<sup>2</sup> Forms FL-910 and FL-915 were among six proposed forms circulated with the invitation to comment. The other four forms are covered in separate reports also before the council on December 13, 2011: forms FL-800 and FL-810 in the report *Family Law: Summary Dissolution* and forms FL-103 and FL-123 in the report *Family Law: Dissolution, Legal Separation, or Nullity of Same-Sex Marriage*.

judges, attorneys, mediators, family law facilitators, and self-help center attorneys, as well as other family law professionals and attorney organizations specializing in the legal issues of same-sex couples.

Of the four comments received, three agreed with the proposed form revisions without providing narrative comments. The fourth commentator responded with information on various family court issues but stated no position on the forms. No commentators suggested changes to the forms as circulated. A chart of comments is attached at page 6.

### **Alternatives considered**

The committee considered introducing separate new forms for minors seeking to establish a domestic partnership under Family Code section 297.1. To minimize the inventory of forms and acknowledge that the procedures are nearly identical for minors to marry or to establish domestic partnerships,<sup>3</sup> the committee decided instead to use the existing forms applicable to a minor's request to marry and revise them to serve both purposes.

The committee also considered and rejected the option of taking no action. SB 651 establishes that a minor who wishes to enter into a domestic partnership has the same right to seek a court order authorizing the change in status as a minor who wishes to marry. Approving revised forms FL-910 and FL-915, effective January 1, 2012, will ensure that minors seeking to enter into domestic partnerships have timely and equal access to the courts as contemplated by SB 651.

### **Implementation Requirements, Costs, and Operational Impacts**

The implementation requirements, costs, and operational impacts of this proposal should be minimal. Both forms recommended for approval are optional forms, and because this is a relatively infrequently used procedure, will likely be most often printed on demand. Litigants and counsel may also obtain the forms from the California Courts website or public libraries, further reducing the need for courts to maintain many blank paper copies.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The proposed revisions to forms FL-910 and FL-915 support the policies underlying Goal I (Access, Fairness, and Diversity), as they will help court users better understand the requirements and process under California law for a minor and his or her proposed domestic partner to obtain a court order authorizing their union.

### **Attachments**

1. Forms FL-910 and FL-915, at pages 4–5
2. Chart of Comments, at page 6

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<sup>3</sup> The only substantive difference is that minors seeking to enter into a domestic partnership are not required to have the premarital counseling required for those who wish to marry; the proposed forms reflect this difference.

*Clerk stamps date here when form is filed.*

**NOT APPROVED BY THE JUDICIAL COUNCIL**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Clerk fills in case number when form is filed.*

**Case Number:**

**1 Minor Requesting Court Order**

Date of birth: \_\_\_\_\_  
Name: \_\_\_\_\_  
Street address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone number: \_\_\_\_\_

**2 Minor's Proposed Spouse or Domestic Partner**

Date of birth: \_\_\_\_\_  
Name: \_\_\_\_\_  
Street address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone number: \_\_\_\_\_

**3 Your Lawyer's Information** *(if you have a lawyer):*

Name: \_\_\_\_\_  
Telephone number: \_\_\_\_\_ E-mail: \_\_\_\_\_  
Address: \_\_\_\_\_  
State Bar number: \_\_\_\_\_

**4 Request**

The people listed in ① and ② above request that the court grant permission for them to  
 Marry  Establish a domestic partnership.

**5 Written Permission**

You must attach permission to marry or establish a domestic partnership in writing from the parent or guardian of each person under 18. Describe the permissions attached to this form. *(Check all that apply):*

- a.  Permission from ①'s *(check one)*:  mother  father  guardian  
 Other *(explain)*: \_\_\_\_\_
- b.  Permission from ②'s *(check one)*:  mother  father  guardian  
 Other *(explain)*: \_\_\_\_\_

**6 Premarital Counseling**

If requesting permission to marry, the judge may require you to go to premarital counseling to learn about the social, economic, and personal responsibilities of marriage.

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

Date: \_\_\_\_\_

▶ \_\_\_\_\_  
*Person ① signs here*

Date: \_\_\_\_\_

▶ \_\_\_\_\_  
*Person ② signs here*

Clerk stamps date here when form is filed.

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number if known:

Case Number:

1 Minor Requesting Court Order

Date of birth: Name: Street address: City: State: Zip: Telephone number:

2 Minor's Proposed Spouse or Domestic Partner

Date of birth: Name: Street address: City: State: Zip: Telephone number:

3 Your Lawyer's Information (if you have a lawyer):

Name: Address: Telephone number: E-mail: State Bar number:

4 The court has considered the Request of Minor to Marry Establish a Domestic Partnership filed by the people listed in 1 and 2 above and other evidence provided in this case.

5 The court makes the following orders:

- a. This couple may get married if they meet all other requirements to get a marriage license.
b. This couple may establish a domestic partnership if they meet all other requirements to file a Declaration for Domestic Partnership with the Secretary of State.
c. This couple must go to premarital counseling to learn about the social, economic, and personal responsibilities of marriage (applies only to a request of minor to marry).
d. This couple may not get married at this time. The court finds that the person or persons under 18 are not able to consent to marriage.
e. The court is considering whether it is in the best interest of the person or persons under 18 to marry or establish a domestic partnership at this time. The matter is scheduled for a hearing on
Hearing Date Date: Time: a.m. p.m. Dept./Rm. or Address:
f. The couple must show a certificate of completion of premarital counseling before permission is granted (applies only to a request of minor to marry).
g. Other:

Date:



Judge (or Judicial Officer)

This is a Court Order.

**SP11-16**

**Family Law: Permission for Minors to Enter into Domestic Partnerships** (revise forms FL-910, and FL-915) - *Request of Minor to Marry* (form FL-910), *Order on Request of Minor to Marry* (form FL-915).

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Katheel Crouch, Attorney Law Offices of Mark Pachowicz, A Professional Corporation Camarillo	A	No narrative comments.	No response required.
2.	Kevin J. Lane Assistant Clerk - Administrator California Court of Appeal, Fourth Appellate District, Div. 1 San Diego	A	I would agree with the changes made to forms FL-800, FL-910 and FL-915.	No response required.
3.	Helen Lynn Safe Child Coalition	NI	*The commentator provided information relating to child sexual abuse, parental alienation, child custody laws, and child custody proceedings in family courts. The commentator did not address the forms in the proposals circulating for comment in the special cycle.	The commentator did not indicate a position on the forms included in the invitation to comment.
4.	Orange County Bar Association By John C. Hueston, President Newport Beach	A	Agree with proposed changes to FL-910 and FL-915.	No response required.