

# 14 Summary of California Law (10th), Wills and Probate

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**1. Public Administrator.**

- (a) [§416] Nature of Office.
- (b) Temporary Possession or Control of Property.
  - (1) [§417] Report To Public Administrator.
  - (2) [§418] Duties of Public Administrator.
- (c) Appointment as Personal Representative.
  - (1) [§419] Procedure.
  - (2) [§420] Administration of Estate.
- (d) [§421] Deposit of Money of Estate.
- (e) Summary Disposition of Small Estate.
  - (1) [§422] Law Revision Commission Report.
  - (2) [§423] Authority, Records, and Compensation.
  - (3) [§424] Procedure.

**2. Special Administrator.**

- (a) [§425] Grounds for Appointment.
- (b) [§426] Procedure for Appointment.
- (c) [§427] Powers.
- (d) [§428] Termination of Authority.
- (e) [§429] Compensation.

**3. [§430] Administrator With Will Annexed.**

**4. Nonresident Personal Representative.**

- (a) [§431] In General.
- (b) [§432] Service of Process.

**C. Appointment of Executors and Administrators.**

**1. [§433] Competency and Qualifications.**

**2. Executor's Right to Appointment.**

- (a) [§434] Testator's Direction or Intention.
- (b) [§435] Power To Designate Executor.

**3. Priority in Appointment of Administrator.**

- (a) [§436] In General.
- (b) [§437] Statutory Priority.
- (c) [§438] Surviving Spouse or Domestic Partner.

- (d) [§439] Relatives.
      - (e) [§440] Nominee of Person Entitled.
      - (f) [§441] Guardian or Conservator of Person Entitled.
      - (g) [§442] Public Administrator.
      - (h) [§443] Creditor.
      - (i) [§444] Any Other Person.
    - 4. [§445] Procedure in Appointment.
  - D. Letters, Oath, and Bond.
    - 1. [§446] Letters and Oath.
    - 2. [§447] Statement of Duties and Liabilities.
    - 3. Bond.
      - (a) [§448] In General.
      - (b) [§449] Amount.
      - (c) [§450] Waiver.
  - E. Removal From Office.
    - 1. Grounds for Removal.
      - (a) [§451] In General.
      - (b) [§452] Mismanagement or Fraud.
      - (c) [§453] Neglect of Estate or Duties.
      - (d) [§454] Protection of Estate or Interested Persons.
      - (e) [§455] Substitution of Person With Higher Priority.
      - (f) [§456] Contempt of Court.
      - (g) [§457] Probate of Will or Later Will.
    - 2. Procedure for Removal.
      - (a) [§458] Who May Seek Removal.
      - (b) [§459] Petition, Citation, Hearing, and Determination.
  - F. Vacancy in Office.
    - 1. [§460] Death, Resignation, Removal, or Other Termination.
    - 2. [§461] Vacancy of Fewer Than All Representatives.
    - 3. [§462] Vacancy of All Representatives.
    - 4. [§463] Acts and Liability of Former Representative.
  - G. Powers and Duties.
    - 1. In General.
      - (a) [§464] Fiduciary Relationship.
      - (b) [§465] Standard of Care.
      - (c) [§466] Decedent's Contracts and New Contracts.
      - (d) [§467] Employment of Attorney and Tax Advisors.
      - (e) Court Supervision.
        - (1) [§468] General Rule: No Approval Required.
        - (2) [§469] Instructions or Confirmation.
        - (3) [§470] Order To Act or Not To Act.
        - (4) [§471] Suspension of Powers.
      - (f) [§472] Summary Determination of Disputes.
      - (g) Joint Representatives.
        - (1) [§473] Authority To Act.
        - (2) [§474] Liability of One for Breach by Another.

- 2. Possession and Management of Estate.**
  - (a) Duty To Take Possession.**
    - (1) [§475] Right and Duty.**
    - (2) [§476] Mistaken Possession in Good Faith.**
  - (b) [§477] Duty To Care for Property.**
  - (c) [§478] Duty To Recover Property.**
  - (d) [§479] Exercise of Shareholder and Membership Rights.**
  - (e) [§480] Deposit of Money and Personal Property.**
  - (f) Investments.**
    - (1) [§481] Investments Without Court Approval.**
    - (2) [§482] Investments With Court Approval.**
    - (3) [§483] Investments Provided in Will.**
  - (g) [§484] Purchase of Property.**
- 3. Operation of Decedent's Business.**
  - (a) [§485] Former Law and Law Revision Commission Report.**
  - (b) [§486] Decedent's Nonpartnership Business.**
  - (c) [§487] Decedent's Partnership Business.**
- 4. Borrowing Money and Encumbering Property.**
  - (a) [§488] Authority To Borrow and Encumber.**
  - (b) [§489] Authority To Act With Other Owners.**
  - (c) [§490] Petition and Notice.**
  - (d) [§491] Order.**
  - (e) [§492] Execution of Instruments.**
  - (f) [§493] Effect of Encumbrance Under Order.**
  - (g) [§494] Restriction on Deficiency After Foreclosure or Sale.**
- 5. [§495] Sale of Property.**
- 6. [§496] Exchange of Property.**
- 7. Option To Purchase Property.**
  - (a) [§497] Authority To Grant Option.**
  - (b) [§498] Exercise of Option Given in Will.**
- 8. [§499] Dedication or Conveyance of Property to Public Entity.**
- 9. Purchase of Estate Property by Representative or Attorney.**
  - (a) [§500] Prohibition and Exemptions.**
  - (b) [§501] Petition, Hearing, and Order.**
- 10. Lease of Estate Property.**
  - (a) [§502] In General.**
  - (b) [§503] Petition, Notice, Hearing, and Determination.**
  - (c) [§504] Order and Lease.**
- 11. Compromise of Claims and Actions.**
  - (a) [§505] Former Law and Law Revision Commission Report.**
  - (b) [§506] Compromise With Court Approval.**
  - (c) [§507] Compromise Without Court Approval.**
  - (d) [§508] Procedure.**
- 12. [§509] Transactions Under Mortgage or Deed of Trust.**
- 13. Abandonment of Tangible Personal Property.**
  - (a) [§510] Power To Abandon.**

- (b) [§511] Procedure.
- 14. Actions Involving Estate.
  - (a) [§512] Statutory Framework.
  - (b) Probate Code Actions.
    - (1) [§513] In General.
    - (2) [§514] Particular Actions by and Against Personal Representative.
    - (3) [§515] Decedent's Liability Covered by Insurance.
  - (c) Limitation of Actions.
    - (1) [§516] Decedent's Cause of Action.
    - (2) [§517] Action Against Decedent.
  - (d) Effect of Death on Parties to Civil Actions.
    - (1) [§518] In General.
    - (2) [§519] Decedent's Cause of Action.
    - (3) [§520] Cause of Action Against Decedent.
    - (4) [§521] Wrongful Death.

#### **H. Liabilities.**

- 1. [§522] In General.
- 2. [§523] Limitations.
- 3. [§524] Liability of Surety.
- 4. Breach of Fiduciary Duty.
  - (a) [§525] Statutory Framework.
  - (b) [§526] Case Law Illustrations.

#### **I. [§527] Reimbursement for Expenses.**

#### **J. Compensation of Personal Representative and Attorney.**

- 1. In General.
  - (a) [§528] Percentage of Value of Estate.
  - (b) [§529] Statutory Schedule.
  - (c) [§530] Provision in Will.
  - (d) [§531] Determination of Amount.
  - (e) [§532] Apportionment Among Several Representatives.
  - (f) [§533] Representative Acting as Own Attorney.
- 2. Compensation for Extraordinary Services.
  - (a) In General.
    - (1) [§534] Nature of Allowance.
    - (2) [§535] Distinctions.
  - (b) Services Considered Extraordinary.
    - (1) [§536] In General.
    - (2) [§537] Fee-Related Services.
  - (c) Considerations Governing Allowance and Amount.
    - (1) [§538] Discretion of Court.
    - (2) [§539] Sufficiency of Showing.
- 3. Procedure in Obtaining Compensation.
  - (a) [§540] In General.
  - (b) [§541] Advance Payment.



(c) [§542] Personal Liability of Representative for Attorney's Compensation.

## **XI. ESTATE ADMINISTRATION**

### **A. Probate of Will.**

- 1. [§543] Production of Will.**
- 2. [§544] Petition for Probate.**
- 3. Proof of Will.**
  - (a) [§545] Proof by Subscribing Witness.**
  - (b) [§546] Proof When Subscribing Witness Is Unavailable.**
  - (c) [§547] Proof of Holographic Will.**
- 4. [§548] Admission to Probate.**
- 5. [§549] Effect of Order Admitting Will to Probate.**
- 6. Probate of Lost or Destroyed Will.**
  - (a) [§550] In General.**
  - (b) [§551] Former Restrictions.**
  - (c) [§552] Presumption of Revocation.**

### **B. Contest of Will.**

- 1. Right To Contest.**
  - (a) [§553] Necessity of Pecuniary Interest.**
  - (b) Persons Entitled To Contest.**
    - (1) [§554] Heir at Law.**
    - (2) [§555] Devisee Under Will.**
    - (3) [§556] Assignee or Survivor of Interested Person.**
    - (4) [§557] Judgment Creditor With Lien.**
    - (5) [§558] Executor Under Admitted Will.**
  - (c) [§559] Persons Not Entitled To Contest.**
- 2. No Contest Clause.**
  - (a) [§560] Law Revision Commission Report.**
  - (a-1) [§560A] (New) Revised No Contest Clause Statutes.**
  - (b) [§561] Statutory Framework.**
  - (c) [§562] Determination Whether Act Constitutes Contest.**
  - (d) [§563] Validity and Effect of Clause.**
  - (e) [§564] Strict Construction.**
  - (f) Limitations on Enforcement.**
    - (1) [§565] In General.**
    - (2) [§566] Forgery.**
    - (3) [§567] Revocation.**
    - (4) [§568] Benefit to Interested Person.**
    - (5) [§569] Invalid Donative Transfer.**
    - (6) [§570] Claim of Creditor.**
    - (7) [§571] Property Claimed Independent of Instrument.**
    - (8) [§572] Action To Determine Character, Title, or Ownership of Property.**
    - (9) [§573] Challenge to Validity of Another Instrument.**
    - (10) [§574] Challenge on Ground of Duress and Undue Influence.**
    - (10a) [§574A] (New) Challenge on Ground of Lack of Capacity.**

- (11) [§575] Procedural Challenges.
- (12) [§576] Public Policy Limitations.

**3. Procedure.**

- (a) Contest Before Probate.
  - (1) [§577] Objection, Summons, and Response.
  - (2) [§578] Trial.
  - (3) [§579] Orders and Judgment.
- (b) Revocation of Probate.
  - (1) [§580] Former Statutes and Case Law.
  - (2) [§581] Petition, Summons, and Response.
  - (3) [§582] Hearing and Determination.

**C. Opening Estate Administration.**

**1. Petition for Administration.**

- (a) [§583] Who May Petition.
- (b) [§584] Content and Attachments.
- (c) [§585] Filing Fee.
- (d) [§586] Contest.

**2. Notice of Hearing.**

- (a) [§587] Content and Form.
- (b) [§588] Service of Notice.
- (c) [§589] Publication of Notice.

**3. [§590] Hearing and Determination.**

**D. Inventory and Appraisal.**

**1. In General.**

- (a) [§591] Statutory Development.
- (b) [§592] Requirement of Inventory and Appraisal.
- (c) [§593] Effect of Failure To File.

**2. Probate Referees.**

- (a) [§594] Appointment and Qualifications.
- (b) [§595] Prohibited Political Activity.
- (c) [§596] Revocation of Appointment.
- (d) [§597] Powers of Probate Referee.

**3. Inventory.**

- (a) [§598] Contents.
- (b) [§599] Verification.
- (c) [§600] Discovery of Decedent's Property.

**4. Appraisal.**

- (a) [§601] In General.
- (b) [§602] Appraisal by Personal Representative.
- (c) [§603] Appraisal by Probate Referee.
- (d) [§604] Appraisal by Independent Expert.
- (e) [§605] Waiver of Appraisal by Referee.
- (f) [§606] Designation of Referee.
- (g) [§607] Removal of Referee.
- (h) [§608] Time for Referee Appraisal.
- (i) [§609] Referee's Appraisal Report and Data.

- (j) [§610] **Objection to Appraisal.**
- (k) [§611] **Referee's Commission and Expenses.**

**E. Claims of Creditors.**

**1. Filing Requirement.**

- (a) [§612] **In General.**
- (b) [§613] **Estoppel and Waiver.**

**2. Notice to Creditors.**

- (a) [§614] **Requirement of Notice.**
- (b) [§615] **Sufficiency of Notice.**
- (c) [§616] **Immunity for Good Faith Acts or Omissions.**
- (d) [§617] **Liability of Distributee to Known or Ascertainable Creditors.**

**3. Claims That Must Be Filed.**

- (a) [§618] **In General.**
- (b) [§619] **Contract Claims.**
- (c) [§620] **Tort Claims.**
- (d) **Claims by Public Entities.**
  - (1) [§621] **Filing Requirement.**
  - (2) [§622] **Claims Under Specific Statutes.**
  - (3) [§623] **Effect of Failure To Give Notice.**
- (e) **Claims in Litigation.**
  - (1) [§624] **Claim on Cause of Action.**
  - (2) [§625] **Claim on Pending Action or Proceeding.**
- (f) **Claims Established by Judgment.**
  - (1) [§626] **Former Statutes and Revision.**
  - (2) [§627] **Money and Nonmoney Judgments.**
  - (3) [§628] **Conversion of Attachment Lien to Judgment Lien.**

**4. Claims That Need Not Be Filed.**

- (a) [§629] **Claim to Specific Property.**
- (b) [§630] **Claim for Restitution After Rescission.**
- (c) [§631] **Action on Claim Covered by Insurance.**
- (d) [§632] **Action To Enforce Security Interest.**

**5. Time for Filing Claim.**

- (a) [§633] **Time Period.**
- (b) [§634] **Amended and Revised Claims.**
- (c) [§635] **Petition To File Late Claim.**

**6. Procedure for Filing Claim.**

- (a) [§636] **How Claim Is Filed.**
- (b) [§637] **Form and Content.**
- (c) [§638] **Supporting Documents.**
- (d) [§639] **Waiver of Formal Defects.**

**7. Allowance and Rejection.**

- (a) [§640] **Allowance or Rejection by Personal Representative.**
- (b) [§641] **Approval or Rejection by Court.**
- (c) [§642] **Barred Claims Must Be Rejected.**
- (d) [§643] **Contest of Allowed and Approved Claims.**
- (e) [§644] **Status of Approved Claims.**

**8. Action on Rejected Claim.**

- (a) **[\$645] Right To Bring Action.**
- (b) **[\$646] Statute of Limitations.**
- (c) **[\$647] Procedure.**

**F. Payment of Debts and Expenses.**

- 1. [\$648] In General.**
- 2. [\$649] Priority Among Claimants.**
- 3. Time and Procedure for Payment.**
  - (a) **[\$650] Time for Payment.**
  - (b) **[\$651] Interest.**
  - (c) **[\$652] Rights of Unpaid Creditor.**
  - (d) **[\$653] Deposit for Missing Creditor.**
  - (e) **[\$654] Disputed, Contingent, and Not Due Debts.**
- 4. Allocation Between Estate and Spouse.**
  - (a) **[\$655] In General.**
  - (b) **[\$656] Allocation Rules.**
- 5. [\$657] Liability for Funeral Expenses.**
- 6. Abatement of Shares of Beneficiaries.**
  - (a) **[\$658] In General.**
  - (b) **[\$659] Order of Abatement.**
  - (c) **[\$660] Contribution for Abatement.**
- 7. [\$661] Exoneration of Devise.**
- 8. Proration of Estate Taxes.**
  - (a) **[\$662] In General.**
  - (b) **[\$663] Equitable Proration.**
  - (c) **[\$664] Decedent's Direction Otherwise.**
  - (d) **[\$665] Qualified Real Property.**
  - (e) **[\$666] Excess Retirement Accumulations.**
  - (f) **[\$667] Contribution and Reimbursement.**
  - (g) **[\$668] Judicial Proceedings.**
  - (h) **[\$669] Taxes on Generation-Skipping Transfer.**

**G. Sale of Property.**

- 1. In General.**
  - (a) **[\$670] Former Law and Revision.**
  - (b) **[\$671] When Property May Be Sold.**
  - (c) **[\$672] Petition To Compel Sale.**
  - (d) **[\$673] Discretion of Representative.**
  - (e) **[\$674] Directions in Will.**
  - (f) **[\$675] Appraisal and Sale as Unit.**
  - (g) **[\$676] Excess Profit or Loss on Sale.**
  - (h) **[\$677] Sale of Undivided Interest.**
- 2. Contract With Agent, Broker, or Auctioneer.**
  - (a) **Nature of Contract.**
    - (1) **[\$678] Agent or Broker.**
    - (2) **[\$679] Auctioneer.**
  - (b) **Compensation of Agent or Broker.**

- (1) [§680] Requirements for Liability.
- (2) [§681] Limitations on Amount.
- (3) [§682] Compensation in Absence of Exclusive Contract.
- (4) [§683] Compensation Under Exclusive Contract.

### **3. Manner of Sale.**

#### **(a) Personal Property.**

- (1) [§684] Notice of Sale.
- (2) [§685] Sale at Public Auction.
- (3) [§686] Private Sale.
- (4) [§687] Sale on Credit.
- (5) [§688] Passage of Title Without Confirmation.
- (6) [§689] Report and Hearing.
- (7) [§690] Overbid and Confirmation.

#### **(b) Real Property.**

- (1) [§691] Notice of Sale.
- (2) [§692] Sale at Public Auction.
- (3) [§693] Private Sale.
- (4) [§694] Sale on Credit.
- (5) [§695] Report and Hearing.
- (6) [§696] Overbid Procedure.
- (7) [§697] Confirmation or Vacation of Sale.
- (8) [§698] Assignment or Conveyance.

#### **(c) Particular Types of Property.**

- (1) [§699] In General.
- (2) [§700] Securities.
- (3) [§701] Accounts In Financial Institutions.
- (4) [§702] Leasehold Interest.
- (5) [§703] Contract Right To Purchase Real Property.

### **4. Vacating Sale for Purchaser's Default.**

- (a) [§704] Vacating Sale and Directing Resale.
- (b) [§705] Vacating Sale and Confirming New Sale.

### **5. Sale of Encumbered Property.**

- (a) [§706] In General.
- (b) [§707] Expenses of Administration.
- (c) [§708] Sale to Lienholder.

### **6. [§709] Liability of Personal Representative.**

## **H. Accounts.**

### **1. Required Accounts.**

- (a) [§710] In General.
- (b) [§711] Where Representative Is Unavailable.
- (c) [§712] When Account Is Not Required.
- (d) [§713] Compelling Account.

### **2. [§714] Contents of Account.**

### **3. Settlement of Account.**

- (a) [§715] Notice of Hearing.
- (b) [§716] Contest.

- (c) [§717] Hearing and Determination.
- (d) [§718] Effect of Order Settling Account.

#### **I. Distribution of Estate.**

- 1. Determination of Persons Entitled to Distribution.**
  - (a) [§719] Proceeding To Determine Heirship.
  - (b) [§720] Proceeding To Determine Distribution.
- 2. Order for Distribution.**
  - (a) [§721] In General.
  - (b) [§722] Where Distributee Cannot Be Located.
  - (c) Distribution to Person Other Than Beneficiary.
    - (1) [§723] In General.
    - (2) [§724] Order.
    - (3) [§725] No Lien on Real Property Before Distribution.
  - (d) Conclusiveness of Order.
    - (1) [§726] In General.
    - (2) [§727] Conflict Between Order and Will.
  - (e) [§728] Correction of Order.
- 3. Preliminary Distribution.**
  - (a) [§729] In General.
  - (b) [§730] Distribution Under Independent Administration of Estates Act.
- 4. Final Distribution.**
  - (a) [§731] In General.
  - (b) [§732] After-Acquired and After-Discovered Property.
- 5. Distribution of Property In Estate.**
  - (a) [§733] In General.
  - (b) [§734] Credit and Offset.
  - (c) [§735] Where Distributee Is Deceased.
  - (d) [§736] Deposit With County Treasurer.
  - (e) [§737] Distribution to State.
  - (f) [§738] Partition or Allotment of Property.

#### **J. Closing Estate Administration.**

- 1. [§739] Petition for Distribution or Status Report.**
- 2. [§740] Continuance of Administration.**
- 3. [§741] Sanctions Against Representative.**
- 4. Discharge of Representative.**
  - (a) [§742] Petition and Order.
  - (b) [§743] Discharge Without Administration.
  - (c) [§744] Administration After Discharge.

### **XII. INDEPENDENT ADMINISTRATION OF ESTATES ACT**

#### **A. In General.**

- 1. [§745] Statutory Development.**
- 2. [§746] Definitions.**
- 3. [§747] Preliminary Provisions.**

#### **B. Granting or Revoking Authority.**

- 1. [§748] Petition and Notice.**

2. [§749] Order, Letters, and Bond.
3. [§750] Petition To Revoke or Limit Authority.
- C. Administration Under IAEA Authority.
  1. Court Supervision of Transactions.
    - (a) [§751] In General.
    - (b) [§752] Property Transactions.
    - (c) [§753] Transactions Involving Personal Representative or Attorney.
  2. Requirement of Notice.
    - (a) [§754] Powers Exercisable Only After Notice.
    - (b) [§755] Powers Requiring Notice In Some Circumstances.
    - (c) [§756] Powers Exercisable Without Notice.
- D. Notice of Proposed Action Procedure.
  1. [§757] Where Notice Is Required.
  2. [§758] Consent Without Notice.
  3. [§759] Waiver of Notice.
  4. [§760] Content and Form of Notice.
  5. [§761] Objection to Proposed Action.
  6. [§762] Restraining Order To Prevent Proposed Action.
  7. [§763] Hearing After Objection or Restraining Order.
  8. [§764] Effect of Failure To Object.

### **XIII. FAMILY PROTECTION**

- A. [§765] Temporary Possession of Dwelling and Exempt Property.
- B. [§766] Setting Aside Exempt Property.
- C. Setting Aside Probate Homestead.
  1. [§767] Statutory Development.
  2. [§768] Relationship Between Probate Homestead and Declared Homestead.
  3. [§769] Petition.
  4. [§770] Available Property.
  5. [§771] Factors To Be Considered.
  6. [§772] Liability of Property.
  7. [§773] Modification or Termination.
- D. Family Allowance.
  1. [§774] Statutory Development.
  2. [§775] Mandatory Allowance.
  3. [§776] Discretionary Allowance.
  4. [§777] Limitations.
  5. [§778] Commencement and Termination.
  6. [§779] Procedure.
- E. Small Estate Set Aside.
  1. [§780] Statutory Development.
  2. [§781] Nature of Right.
  3. [§782] Petition To Set Aside.
  4. [§783] Notice and Hearing.
  5. [§784] Order.
  6. [§785] Personal Liability for Unsecured Debts.
  7. [§786] Attorneys' Fees.

**F. Loss and Waiver of Rights.**

1. [§787] Loss of Right to Support.
2. [§788] Express Release or Waiver.
3. [§789] Election or Waiver.
4. [§790] Estoppel.
5. [§791] Murder of Decedent.

**XIV. DISPOSITION OF ESTATE WITHOUT ADMINISTRATION**

**A. [§792] Statutory Framework.**

**B. Collection or Transfer of Small Estate.**

**1. In General.**

- (a) [§793] Definitions.
- (b) [§794] Property Excluded From Estate.
- (c) [§795] Authority of Fiduciaries.

**2. Affidavit Procedure for Personal Property.**

- (a) [§796] Statutory Development.
- (b) [§797] Nature of Proceeding.
- (c) [§798] Affidavit and Attachments.
- (d) [§799] Additional Evidence of Ownership.
- (e) [§800] Proof of Affiant's Identity.
- (f) Collection of Property.

(1) [§801] Successor's Entitlement to Property.

(2) [§802] Property in Possession of Public Administrator or Coroner.

(3) [§803] Obligation Secured by Lien on Real Property.

(g) Liability of Transferee.

(1) [§804] Liability for Decedent's Debts.

(2) [§805] Liability to Holder of Superior Right.

(3) [§806] Liability to Estate.

**3. Affidavit Procedure for Real Property.**

- (a) [§807] Nature of Proceeding.
- (b) [§808] Affidavit and Attachments.
- (c) [§809] Recordation of Affidavit.
- (d) Liability of Transferee.
  - (1) [§810] Liability for Decedent's Debts.
  - (2) [§811] Liability to Holder of Superior Right.
  - (3) [§812] Liability to Estate.

**4. Determining Succession to Real Property.**

- (a) [§813] Nature of Proceeding.
- (b) [§814] Petition.
- (c) [§815] Hearing and Order.
- (d) [§816] Liability of Transferee.
- (e) [§817] Attorneys' Fees.

**C. Passage of Property to Surviving Spouse.**

**1. Passage of Property.**

- (a) [§818] Property Passing Without Administration.
- (b) [§819] Property Subject to Administration.



- (c) [§820] Survivor's Election.
- 2. Right To Dispose of Community Property.
  - (a) [§821] Real Property.
  - (b) [§822] Securities.
- 3. Liability of Surviving Spouse.
  - (a) [§823] Debts of Deceased Spouse.
  - (b) [§824] Property of Deceased Spouse.
- 4. Collection of Compensation Owed to Deceased Spouse.
  - (a) [§825] Authority To Collect.
  - (b) [§826] Affidavit and Additional Proof.
  - (c) [§827] Action To Compel Payment.
  - (d) [§828] Liability to Holder of Superior Right.
- 5. Determination or Confirmation of Community Property.
  - (a) [§829] Nature of Proceeding.
  - (b) [§830] Petition.
  - (c) [§831] Notice of Hearing.
  - (d) [§832] Orders.
  - (e) [§833] Attorneys' Fees.

**D. [§834] Special Property Interests and Benefits.**

**XV. POWER OF ATTORNEY LAW**

**A. In General.**

- 1. [§835] Nature and Scope of Instrument.
- 2. [§836] Construction.

**B. Statutory Development.**

- 1. [§837] Original Statutes.
- 2. [§838] Law Revision Commission Report.
- 3. [§839] Enactment of Revised Law.
- 4. [§840] Scope of Revision.

**C. Definitions and Preliminary Provisions.**

- 1. [§841] In General.
- 2. [§842] Definitions.
- 3. [§843] Covered and Excluded Instruments.
- 4. [§844] Conflict of Law Rules.

**D. General Provisions Governing Powers of Attorney.**

- 1. [§845] Governing Rules and Limitations.
- 2. Creation and Effect of Power.
  - (a) [§846] Formalities of Execution.
  - (b) [§847] Grants of Authority.
  - (c) [§848] Springing Powers.
  - (d) [§849] Special Requirements for Durable Powers.
- 3. Modification, Termination, and Revocation.
  - (a) [§850] Power of Attorney.
  - (b) [§851] Termination of Authority of Attorney-in-Fact.
  - (c) [§852] Revocation of Authority of Attorney-in-Fact.
- 4. Attorney-in-Fact.
  - (a) [§853] In General.

- (b) [§854] Compensation and Expenses.
- (c) [§855] No General Duty To Act.
- (d) [§856] Special Duties.
- (e) [§857] Standard of Care.
- (f) [§858] Nature and Scope of Authority.
- (g) [§859] General, Limited, and Express Authority.
- (g) [§860] Relation to Court-Appointed Fiduciary.
- (h) [§861] Resignation.

**5. Protection of Third Persons.**

- (a) [§862] In General.
- (b) [§863] Certified Copy of Power.
- (c) [§864] Immunity From Liability.
- (d) [§865] Power Not Revoked Until Notice.

**E. Uniform Statutory Form Power of Attorney.**

- 1. [§866] Statutory Development.
- 2. [§867] Nature and Scope.
- 3. [§868] Requirements for Validity of Form.
- 4. [§869] Statutory Form.
- 5. [§870] General Powers.
- 6. [§871] Particular Powers.
- 7. [§872] Action To Compel Third Person To Honor Agent's Authority.

**F. Judicial Proceedings.**

- 1. [§873] In General.
- 2. [§874] Petition.
- 3. [§875] Hearing, Determination, and Appeal.

**XVI. HEALTH CARE DECISIONS LAW**

**A. In General.**

- 1. [§876] Former Law.
- 2. [§877] Law Revision Commission Recommendation.
- 3. [§878] Enactment.
- 4. [§879] Legislative Findings and Intent.
- 5. [§880] Definitions.
- 6. [§881] Who May Act as Decisionmaker.

**B. Uniform Health Care Decisions Act.**

- 1. [§882] In General.
- 2. [§883] Right To Give Instructions and Execute Powers.
- 3. [§884] Advance Health Care Directives.
- 4. Powers of Attorney for Health Care.
  - (a) [§885] In General.
  - (b) [§886] Agent's Authority.
- 5. [§887] Revocation of Directive or Designation.
- 6. Statutory Form.
  - (a) [§888] In General.
  - (b) [§889] Explanatory Section.
  - (c) [§890] Body of Form.
- 7. [§891] Health Care Surrogates.

**8. Duties of Health Care Providers.**

- (a) **[\$892] Duty To Communicate and Record.**
- (b) **[\$893] Duty To Comply With Instructions.**

**9. Immunities and Liabilities.**

- (a) **[\$894] Immunity of Health Care Provider or Institution.**
- (b) **[\$895] Immunity of Agent or Surrogate.**
- (c) **[\$896] Civil and Criminal Penalties.**

**C. Judicial Proceedings.**

- 1. **[\$897] In General.**
- 2. **[\$898] Petition.**
- 3. **[\$899] Hearing, Determination, and Appeal.**

**D. [\$900] Request To Forgo Resuscitative Measures.**

**XVII. GUARDIANSHIP AND CONSERVATORSHIP**

**A. Former Law.**

- 1. **[\$901] Former Law of Guardianship.**
- 2. **[\$902] Former Law of Conservatorship.**

**B. Guardianship-Conservatorship Law.**

- 1. **Nature of Revision.**
  - (a) **[\$903] In General.**
  - (b) **[\$904] Principal Changes.**
- 2. **[\$905] Statutory Framework.**
- 3. **[\$906] Definitions.**
- 4. **[\$907] Rules of Practice.**
- 5. **Appointment of Counsel.**
  - (a) **[\$908] Discretionary Appointment.**
  - (b) **[\$909] Mandatory Appointment.**
- 6. **Notices.**
  - (a) **[\$910] General Notice Requirement.**
  - (b) **[\$911] When Conservatee or Ward Is State Hospital Patient.**
  - (c) **[\$912] When Conservatee or Ward Is Developmentally Disabled.**
  - (d) **[\$913] Notice to Veterans Administration.**
  - (e) **[\$914] Notice in Missing Person Proceedings.**
- 7. **[\$915] Judicial Council Forms.**
- 8. **[\$915A] (New) Special Provisions Applicable to Indian Children.**

**C. Guardianship of Minors.**

- 1. **[\$916] In General.**
- 2. **Appointment.**
  - (a) **[\$917] Nomination.**
  - (b) **Petition.**
    - (1) **[\$918] Who May File.**
    - (2) **[\$919] Content and Form.**
  - (c) **Notice of Hearing.**
    - (1) **[\$920] In General.**
    - (2) **[\$921] When Notice Is Not Required.**
  - (d) **[\$922] Investigation and Report.**
  - (e) **[\$923] Additional Requirements for Nonrelative Guardianship.**

- (f) [§924] Factors Considered in Appointment.
- (g) [§925] Degree of Proof.
- (h) [§926] Determination and Order.
- (i) Guardianship Contest Involving Parent.
  - (1) [§927] Nature of Problem.
  - (2) [§928] Illustrations.

- 3. [§929] Annual Status Report.
- 4. [§930] Termination of Guardianship.
- 5. [§931] Vexatious Litigants.

**D. Conservatorship.**

- 1. [§932] Organization and Purpose of Statutes.
- 2. [§933] When Conservatorship Is Appropriate.
- 3. Appointment.
  - (a) [§934] Nomination.
  - (b) [§935] Limitation on Appointment of Spouse or Domestic Partner.
  - (c) [§936] Court's Discretion and Statutory Preference.
  - (d) Petition.
    - (1) [§937] Who May File.
    - (2) [§938] Content and Form.
  - (e) Notice of Hearing.
    - (1) [§939] In General.
    - (2) [§940] Citation to Proposed Conservatee.
  - (f) [§941] Investigation and Report.
  - (g) [§942] Assessment of Developmentally Disabled Person.
  - (h) Hearing and Order.
    - (1) [§943] In General.
    - (2) [§944] Attendance of Proposed Conservatee.
    - (3) [§945] Degree of Proof.
  - (i) Required Disclosures.
    - (1) [§946] Disclosures to Conservatee.
    - (2) [§947] Disclosures to Conservator.
  - (j) [§948] Where Proposed Conservatee Is Absentee.
  - (k) [§949] Where Proposed Conservatee Is Missing Person.
- 4. [§950] Periodic Review of Conservatorship.
- 5. Termination of Conservatorship.
  - (a) [§951] In General.
  - (b) [§952] Procedure.
- 6. Legal Capacity of Conservatee.
  - (a) Capacity To Bind Estate.
    - (1) [§953] In General.
    - (2) [§954] Limited or Temporary Conservatee.
    - (3) [§955] Court Order Broadening Capacity.
  - (b) Capacity To Consent to Medical Treatment.
    - (1) [§956] Determination by Court.
    - (2) [§957] Procedure.
  - (c) [§958] Capacity To Marry.

- (d) [§959] Capacity To Vote.
- 7. [§959A] (New) Vexatious Litigants.
  - (a) (New) In General.
    - (1) [§959B] (New) Nature and Scope of Act.
    - (2) [§959C] (New) Exclusions and Limitations.
    - (3) [§959D] (New) Definitions.
    - (4) [§959E] (New) Court Procedures.
  - (b) (New) Jurisdiction.
    - (1) [§959F] (New) In General.
    - (2) [§959G] (New) Jurisdiction of California Court.
    - (3) [§959H] (New) Determination That Another Forum Is Appropriate.
    - (4) [§959-I] (New) Jurisdiction Based on Unjustifiable Conduct.
  - (c) (New) Transfer of Conservatorship.
    - (1) [§959J] (New) Transfer to Another State.
    - (2) [§959K] (New) Transfer to California.
  - (d) (New) Recognition and Registration of Out-of-State Conservatorship.
    - (1) [§959L] (New) Registration.
    - (2) [§959M] (New) Nature and Scope of Conservator's Power.
    - (3) [§959N] (New) Protection of Third Parties.

**E. Provisions Common to Guardianship and Conservatorship.**

- 1. General Provisions.
  - (a) [§960] Governing Law.
  - (b) [§961] Fiduciary Relationship.
  - (c) [§962] Court Supervision.
  - (d) [§963] Joint Guardians or Conservators.
  - (e) [§964] Guardian or Conservator for Nonresident.
  - (f) [§965] Nominated Guardian.
  - (g) [§966] Appointment of Charitable Corporation.
- 2. Private Professionals.
  - (a) [§967] In General.
  - (b) [§968] Reporting Requirements.
  - (c) [§969] Statewide Registry.
  - (d) [§970] Restrictions on Self-Dealing.
- 2A. [§970A] (New) Professional Fiduciaries Act.
- 3. Public Guardian.
  - (a) [§971] Nature of Office.
  - (b) [§972] Appointment Procedure.
  - (c) [§973] Temporary Possession or Control of Property.
  - (d) [§974] Administration of Estate.
- 4. Temporary Guardians and Conservators.
  - (a) [§975] Appointment.
    - (a-1) [§975A] (New) Good Cause Exception to Notice Requirements.
  - (b) [§976] Notice in LPS Proceedings.
  - (c) [§977] Powers and Duties.

- (d) [§978] Change of Conservatee's Residence.
- 5. Jurisdiction and Venue.
  - (a) [§979] Jurisdiction.
  - (b) [§980] Venue.
  - (c) [§981] Change of Venue.
- 6. [§982] Oath and Letters.
- 7. Bond.
  - (a) [§983] Requirement.
  - (b) [§984] Exceptions and Waiver.
  - (c) [§985] Amount of Bond.
  - (d) [§986] Sureties.
- 8. [§987] Request for Special Notice.
- 9. [§988] Appealable Orders.
- 10. Powers and Duties: Guardian or Conservator of Person.
  - (a) [§989] In General.
  - (b) [§990] Fixing Residence.
  - (c) Medical Treatment.
    - (1) [§991] Consent to Treatment of Ward.
    - (2) [§992] Consent to Treatment of Conservatee.
    - (3) [§993] Restrictions on Treatment.
    - (4) [§994] Court Authorization of Treatment.
    - (5) [§995] Conservatee With Dementia.
    - (6) [§996] Removal of Life Support.
- 11. Powers and Duties: Guardian or Conservator of Estate.
  - (a) General Provisions.
    - (1) [§997] Appointment and Conditions.
    - (2) [§998] Summary Determination of Disputes.
    - (3) [§999] Liability for Breach of Fiduciary Duty.
    - (4) [§1000] Restrictions on Self-Dealing.
  - (b) Estate Management Powers.
    - (1) [§1001] Duty To Manage Estate.
    - (2) [§1002] Exercise of Powers Without Court Supervision.
    - (3) [§1003] Collection of Debts or Benefits.
    - (4) [§1004] Deposit of Money or Property.
    - (5) [§1005] Notification by Institutions.
    - (6) [§1006] Life Insurance and Other Benefits.
    - (7) [§1007] Representation in Actions and Proceedings.
  - (c) Support and Maintenance.
    - (1) [§1008] In General.
    - (2) [§1009] Distribution of Surplus Income.
  - (d) Payment of Claims and Expenses.
    - (1) [§1010] In General.
    - (2) [§1011] Wage Claims.
  - (e) Compromise of Claims and Modification of Obligations.
    - (1) [§1012] Without Court Approval.
    - (2) [§1013] Court Approval Required.

- (3) [§1014] Procedure for Court Approval.
    - (f) Sales.
      - (1) [§1015] In General.
      - (2) [§1016] Sale Without Court Authorization.
      - (3) [§1017] Procedure.
    - (g) Investments and Purchases.
      - (1) [§1018] Authorization by Court.
      - (2) [§1019] Investments Not Requiring Authorization.
    - (h) Other Property Transactions.
      - (1) [§1020] In General.
      - (2) [§1021] Loans and Secured Transactions.
      - (3) [§1022] Leases.
      - (4) [§1023] Dedication or Conveyance of Real Property Interests.
      - (5) [§1024] Exchange of Property.
    - (i) Substituted Judgment.
      - (1) [§1025] Nature of Doctrine.
      - (2) [§1026] Petition, Notice, and Hearing.
      - (3) [§1027] Determination and Order.
      - (4) [§1028] Role of Trial Judge.
    - (j) Independent Exercise of Powers.
      - (1) [§1029] Purpose and Effect of Authorization.
      - (2) [§1030] Powers That May Be Granted.
      - (3) [§1031] Procedure.
  - 12. Inventory and Accounts.
    - (a) [§1032] General Provisions.
    - (b) Inventory and Appraisal.
      - (1) [§1033] In General.
      - (2) [§1034] Objections and Independent Appraisal.
      - (3) [§1035] Examination on Property Wrongfully Withheld.
    - (c) Periodic Account.
      - (1) [§1036] In General.
        - (1a) [§1036A] (New) Simplified and Standard Accountings.
      - (2) [§1037] Hearing and Objections.
      - (3) [§1038] Review of Transactions.
      - (4) [§1039] Settlement and Discharge.
      - (5) [§1040] Compensation and Expenses.
      - (6) [§1041] Failure To File Account.
    - (d) [§1042] Accounts on Termination of Relationship.
  - 13. Compensation of Guardian, Conservator, and Attorney.
    - (a) [§1043] Former Law.
    - (b) [§1044] Procedure.
    - (c) [§1045] Scope of Authorized Compensation.
    - (d) [§1046] Compensation of Attorney.
    - (e) [§1047] Order Authorizing Periodic Payments.
  - 14. Removal or Resignation.
    - (a) [§1048] Causes for Removal.

- (b) [§1049] Procedure for Removal.
- (c) [§1050] Resignation.
- (d) [§1051] Appointment of Successor Guardian.
- (e) [§1052] Appointment of Successor Conservator.

**15. [§1053] Transfer of Property Out of State.**

**F. Limited Conservatorship for Developmentally Disabled Adults.**

- 1. [§1054] In General.**
- 2. [§1055] Procedure.**
- 3. [§1056] Order Appointing Limited Conservator.**
- 4. Duties and Powers of Limited Conservator.**
  - (a) [§1057] Statutory Specification.
  - (b) [§1058] Modification of Powers.
  - (c) Sterilization of Conservatee.
    - (1) [§1059] In General.
    - (2) [§1060] Hearing.

**5. [§1061] Termination of Limited Conservatorship.**

**G. Other Protective Proceedings.**

- 1. [§1062] Community Property.**
- 2. Health Care Decisions for Adult.**
  - (a) [§1063] In General.
  - (b) [§1064] Petition, Notice, and Hearing.
  - (c) [§1065] Order.
- 3. Protection of Minors.**
  - (a) [§1066] In General.
  - (b) [§1067] Small Estate.
  - (c) [§1068] Money Belonging to Minor.
  - (d) [§1069] Parent's Compromise of Minor's Claim.
  - (e) Proceeds of Compromise or Judgment.
    - (1) [§1070] In General.
    - (2) [§1071] Disposition of Proceeds.
    - (3) [§1072] Special Needs Trust.
- 4. Property of Absent Federal Personnel.**
  - (a) [§1073] In General.
  - (b) [§1074] Court Proceeding To Set Aside Property.
  - (c) [§1075] Management and Disposition Without Court Proceeding.
  - (d) [§1076] Absentee's Power of Attorney.
- 5. [§1077] Property of Nonresident.**
- 6. [§1078] Law Practice Administrator.**