

Memorandum 89-65

Subject: Study F-1000 - Family Relations Code (Method of Procedure)

The Law Revision Commission has been directed by the Legislature to conduct a review of all statutes relating to the adjudication of child and family civil proceedings (excluding juvenile delinquency proceedings under Welfare and Institutions Code Section 602), and to make recommendations to the Legislature regarding establishment of a Family Relations Code. A copy of the legislative resolution (ACR 30) is attached as Exhibit 1.

The legislative directive states that the review should:

(1) Highlight evidentiary and procedural provisions (particularly as they relate to child victims).

(2) Include recommendations to amend statutes to ensure that appropriate information is exchanged among courts and investigative and other agencies serving the courts.

(3) Include recommendations to, where appropriate, consolidate code sections, reduce or eliminate redundancies, make various code sections and procedures consistent with each other, improve cross-references and the integration of related actions, and conform code sections where lack of conformity creates inappropriate inconsistencies.

The legislative directive requires that the Commission commence this project giving it the same priority as the administrative law study (i.e., the Commission's next major project), and thereafter deliver its report to the Legislature.

The staff believes the Commission must activate this project immediately. The Legislature expects the Commission to give it a useful product within a reasonable time on a priority basis. This memorandum presents the staff's suggestions on how to proceed on this study.

The Commission needs to make two preliminary decisions on this study--should there be created a Family Relations Code, and if so, what basic subjects should it cover. These decisions can be made relatively quickly. Assuming the decision is to create a new code, the Commission can then turn to the much more time-consuming task of compiling the code provisions. The staff suggests that the Commission not wait until the entire job is completed before submitting recommendations to the Legislature. The Commission can submit individual portions of the code to the Legislature for enactment as they are completed, and the code can thus be assembled over a period of several years. For example, it may be useful to begin with the relocation of the Family Law Act from the Civil Code and its fresh recompilation in the Family Relations Code. The Commission will thus have a continuous work product for the Legislature, and the Legislature will be able to monitor progress on this project.

To assist the Commission in making the preliminary decisions, as well as to help review the detailed drafting itself, the staff recommends that the Commission create an advisory committee of experts who are interested in this project and who have knowledge and experience in various aspects of family relations law. The committee could consist of judges, practitioners, and others active in the matters to be covered by the code. For example, the membership could include representatives from the State Bar Family Law Section and other relevant State Bar sections, from the Judicial Council, and from the Child Victim Witness Judicial Advisory Committee (which made the recommendation that a separate Family Relations Code is needed). The staff does not contemplate that the advisory committee will hold meetings; rather, the committee is a means to obtain knowledgeable input on a reliable basis from persons who receive recognition for their role in the project. The advisory committee would be in addition to the standard Commission practice of having representatives of the relevant State Bar sections, local bar associations, and other interest groups attend meetings to assist the Commission in its work.

If the Commission approves these concepts, the staff will begin developing a list of possible advisers for the next meeting, and also start to assemble our regular mailing list for this topic. The first task of the advisers and others on the list will be to respond to a questionnaire devised by the staff as to the need for and scope of a Family Relations Code. The staff anticipates that the contents of the questionnaire will be developed from a review of the materials of the Child Victim Witness Judicial Advisory Committee, from a compilation of family relations laws of other jurisdictions, and from a survey of the California laws relating to family relations matters. The staff would schedule the questionnaire for Commission review at the next meeting and would circulate it for response after the meeting.

When the questionnaire responses have been compiled, the staff will be in a position to make recommendations to the Commission concerning the scope of the study, the schedule for work on the project, and the extent to which a consultant might assist in the project.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

State Capitol
P.O. Box 942849
Sacramento, CA 94249-0001

Telephone: 445-3614



CA LAW REV. COMM'N

JUL 12 1989

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R. BRIAN KIDNEY
Chief Clerk

July 7, 1989

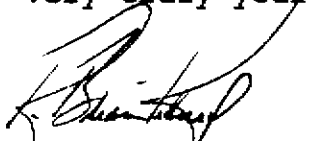
John H. DeMouilly
Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, California 94303

Dear Secretary DeMouilly:

I have been directed to invite your attention to Assembly Concurrent Resolution No. 30, relative to family relations.

Accordingly, a copy of this resolution is enclosed for your information.

Very truly yours,


R. BRIAN KIDNEY
Chief Clerk

RBK:srs
Enclosure

Assembly Concurrent Resolution No. 30

Adopted in Assembly May 25, 1989

Chief Clerk of the Assembly

Adopted in Senate July 6, 1989

Secretary of the Senate

This resolution was received by the Secretary of
State this _____ day of _____, 1989,
at _____ o'clock ____M.

Deputy Secretary of State

RESOLUTION CHAPTER _____

Assembly Concurrent Resolution No. 30—Relative to family relations.

LEGISLATIVE COUNSEL'S DIGEST

ACR 30, Speier. Law Revision Commission: Family Relations Code.

Under existing law, the California Law Revision Commission is required to study any topic assigned to it by the Legislature by concurrent resolution.

This measure would require the California Law Revision Commission to conduct a careful review of all statutes relating to the adjudication of child and family civil proceedings, with specified exceptions, and make recommendations to the Legislature regarding the establishment of a Family Relations Code, as specified.

WHEREAS, California statutory law is divided into numerous codes that deal with family relations matters, including the Civil Code, Welfare and Institutions Code, Probate Code, Health and Safety Code, Code of Civil Procedure, and Evidence Code; and

WHEREAS, California statutes relating to children and families have increased substantially over the past several years, but there has been no comprehensive review of state law as it relates to children and families; and

WHEREAS, Cases involving family relations matters are frequently adjudicated in multiple legal forums using numerous codes, and these codes are often inconsistent or contradictory in the application of evidentiary and procedural rules to the matter at hand involving a child victim; and

WHEREAS, California's laws regarding children and families are often contradictory and inappropriate, and as applied by a variety of court procedures and jurisdictions, state law causes unnecessary hardships to children and their families; and

WHEREAS, The California Child Victim Witness Judicial Advisory Committee has recommended that the

Legislature conduct a careful review of all statutes relating to the civil adjudication of child and family relations matters and that legislation be enacted to establish a Family Relations Code, consolidating all civil child and family relations law; and

WHEREAS, A Family Relations Code would provide the legal framework for a Family Relations Division of the Superior Court, would allow for the legal integration of related actions involving one child or his or her family, and would streamline and improve judicial practices and procedures as they pertain to child victim witnesses as well as other child and family civil proceedings; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That pursuant to Section 8293 of the Government Code, the California Law Revision Commission shall conduct a review of all statutes relating to the adjudication of child and family civil proceedings, excluding proceedings initiated under Section 602 of the Welfare and Institutions Code, and make recommendations to the Legislature regarding the establishment of a Family Relations Code; and be it further

Resolved, That this review should highlight evidentiary and procedural provisions, including, in particular, as they relate to child victims; should include recommendations to amend statutes to ensure that appropriate information is exchanged among courts and investigative and other agencies serving the courts; and should include recommendations to consolidate those code sections which are appropriate to consolidate, to reduce or eliminate redundancies where appropriate, to make various code sections and procedures consistent with each other where appropriate, to improve cross-references and the integration of related actions where appropriate, and to conform code sections where lack of conformity creates inappropriate inconsistencies; and be it further

Resolved, That the California Law Revision Commission shall commence this project giving it the same priority as the Administrative Law project and shall

ACR 30

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thereafter deliver its report to the Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Law Revision Commission.