

Memorandum 93-34

Subject: 1993 Legislative Program

Attached to this memorandum is a chart showing the status of the 1993 legislative program. All bills are progressing without incident except as noted below.

AB 1137 (Parent-Child Relationship for Intestate Succession)

AB 1137 (Knight) contains the Commission recommendation on *Parent and Child Relationship for Intestate Succession*.

The bill also contains a provision on proof of paternity after death of the alleged father, which Mr. Knight is carrying for a constituent, attorney David Bianchi of Lancaster. The first hearing in the Senate Judiciary Committee was held on June 22. At that time, Mr. Bianchi's provision would have permitted paternity to be established by DNA testing if it was not possible for the father openly to hold out the child as his own during lifetime. Several committee members were concerned about the provision for DNA testing.

The staff, in consultation with Matthew Rae of the State Bar Probate Section and with Professor Halbach, helped Mr. Bianchi redraft the offending provision. The redraft replaces the DNA testing provision with one that permits paternity to be established under the Uniform Parentage Act if it "was impossible for the father to hold out the child as his own and paternity is established by clear and convincing evidence." Section 6453. The staff believes the language will solve the committee's problems, and the legislation can now move forward.

AB 209 (Deposit of Estate Planning Documents With Attorney)

AB 209 (Horcher) contains the Commission recommendation on *Deposit of Estate Planning Documents With Attorney*.

The bill was approved by the Senate Judiciary Committee on July 13 after adopting the following amendment of proposed Section 712 suggested by Committee staff:

712. Notwithstanding failure of an attorney to satisfy the standard of care required by Section 710 or 716, the attorney is not liable for loss

or destruction of the document if the depositor has actual notice of the loss or destruction and a reasonable opportunity to replace the document, and the attorney offers without charge either to assist the depositor in replacing the document, or to prepare a substantially similar document and assist in its execution.

The staff assisted in the drafting of this amendment, which was approved by Don Green for the State Bar Probate Section.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

STATUS OF 1993 COMMISSION LEGISLATIVE PROGRAM
(as of July 14, 1993)

AB 209 (Horcher): Deposit of Estate Planning Documents

AB 1137 (Knight): Parent and Child Relationship for
Intestate Succession

AB 1500 (Speier): Family Code Cleanup

AB 1704 (Horcher): Litigation Involving Decedents Cleanup

AB 2211 (Assembly Judiciary): Maintenance of Codes
[includes 3 CLRC technical revisions]

SB 305 (Lockyer): Special Needs Trust Cleanup

SCR 4 (Senate Judiciary): Continuing Authority to Study
Topics [includes 3 new topics]

Bill Status		AB 209	AB 1137	AB 1500	AB 1704	AB 2211	SB 305	SCR 4
Introduced		Jan 25	Mar 2	Mar 4	Mar 4	Mar 5	Feb 17	Jan 7
Last Amended		July 13	June 28	[July 15]	—	June 24	May 26	—
First House	Policy Committee	Apr 20	May 12	Apr 27	May 19	May 27	May 25	Feb 9
	Fiscal Committee	May 19	—	May 26	—	—	Jun 14	Mar 1
	Passed House	May 27	May 28	June 1	May 27	June 3	June 17	Mar 4
Second House	Policy Committee	July 13	[Aug 17]	June 29	June 22	July 13	[Aug 18]	Apr 29
	Fiscal Committee		—	July 12	—	—		May 19
	Passed House				July 2			May 27
Concurrence					—			—
Governor	Received				July 7			—
	Approved							—
Chaptered by Secretary of State	Date							June 2
	Chapter #							Res 31

• Unless otherwise noted, all dates are in 1993.

[date]: scheduled

—: not applicable