

Memorandum 89-28

Subject: New Topics (Final Report of California Child Victim Witness
Judicial Advisory Committee)

The Attorney General has forwarded to the Commission for its review the final report of the California Child Victim Witness Judicial Advisory Committee. The Committee was charged by the Legislature with evaluating California's investigative and judicial practices and procedures, as they apply to child victims and witnesses. The report includes 53 recommendations for actions by counties, the judiciary, and the Legislature.

Recommendation # 20 (page 46 of the report) states:

Legislation should be enacted to establish a Family Relations Code consolidating all child, family and human relations law.

The report notes that family relations matters are treated in a number of different places in the California codes, including the Civil Code, Welfare and Institutions Code, Probate Code, Health and Safety Code, Code of Civil Procedure, and Evidence Code. The report points out that the codes may be contradictory or inconsistent in the application of evidentiary and procedural rules, and may require adjudication in multiple forums. The report suggests that a careful review should be made of all statutes relating to adjudication of child, family, and human relations matters, and a new code enacted that achieves uniformity and consistency of rules.

The Attorney General's office has concluded that the best means of achieving this goal appears to be for the work necessary to formulate such a code to be done by the Law Revision Commission. They ask whether this would be an appropriate and timely task for the Commission to undertake. See Exhibit 1. We have also received an inquiry from Assembly Member Speier's office about the same matter. Assembly Member Speier is interested in carrying legislation on this matter, but wants some indication of the Commission's perspective on it.

The staff has been in touch with the Attorney General's office to get more detail on precisely the sort of project contemplated. Our sense is that the scope of the project is not nearly so broad as expressed in the report. The reference to "human relations" law really is intended as another way of saying "family relations" law. The project is viewed by them primarily as a consolidation of statutes from different parts of the codes, and only secondarily involving substantive revision. They see substantive revision as only incidental to the main task of consolidation. They see a time frame of approximately three years to complete the redrafting project, to coincide with other activities being undertaken pursuant to the report, all culminating in about three years.

The major reason for the Family Relations Code is to provide the legal framework for a family relations division of the Superior Court, coequal with civil and criminal divisions. This is one of the fundamental recommendations of the report. The family relations division would be responsible for domestic relations, juvenile delinquency, juvenile dependency, child support enforcement, paternity, emancipation, developmentally disabled, actions on behalf of dangerous or gravely disabled persons (LPS), adoptions, probate, minor marriage, unemancipated minor abortion requests, termination of parental rights, domestic violence actions, URESA, AFDC reimbursements, juvenile status offenses, writs of habeas corpus, and law and motion relating to these calendars. This jurisdiction would define the scope of the Family Relations Code.

Much of the subject matter of the proposed new code is already within the ambit of the Commission. The Commission is currently authorized to study the following relevant topics:

- Probate Code.
- Family law.
- Rights and disabilities of minors and incompetent persons.
- Child custody, adoption, guardianship, and related matters.
- Evidence.

The Commission has done substantial amounts of work on many of these topics. Many of the matters envisioned for the new code, particularly those relating to juvenile justice, are beyond the scope of the Commission's current authority and would require additional authorization.

The staff's sense is that even if the Commission were to view this project as narrowly as possible as a "simple" consolidation of statutes, there would necessarily be obvious conflicts and substantive problems in the law that would have to be dealt with in the process, and these matters would not be simple or free of political controversy. However, much of the groundwork could be handled at the staff level with little or no Commission involvement. But to the extent staff resources went into this, the Commission's other studies would be slowed down, and the amount of work involved in this project is obviously quite substantial.

One way to handle the matter that could make it quite feasible is for the Commission to engage a consultant to do the groundwork, rather than the staff. The consultant would have to be willing to work on an honorarium basis, as Commission consultants do now, would have to be familiar with the codes and with legislative drafting, and would have to be familiar with the Commission's revision process. It may be possible for the Commission to find a retired attorney who fits this description and is willing to undertake this task.

Respectfully submitted,

Nathaniel Sterling
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Dear Mr. DeMouilly:

Attorney General Van de Kamp has asked me to contact you regarding the Final Report of the California Child Victim Witness Judicial Advisory Committee. A copy of that report is enclosed for your information and use.

The Committee was charged by the Legislature with evaluating California's investigative and judicial practices and procedures, as they apply to child victims and witnesses. As you will see, the report includes 53 recommendations for actions by counties, the Judiciary, and the Legislature.

Recommendation #20 (page 46 of the Report) recommends that legislation be enacted "to establish a Family Relations Code consolidating all child, family and human relations law." In our discussions with the Attorney General on methods to implement the Committee's recommendations, we concluded that the best means of achieving that goal seemed to be for the work necessary to formulate such a Code to be done by the Law Revision Commission.

We would much appreciate it if you could review the Report and that recommendation, and advise us whether this might be an appropriate and timely task for the Commission to undertake.

Please feel free to give me a call (415-557-0285) if you have any questions about this request, the recommendation, or the Committee's Report.

Yours very truly,

JOHN K. VAN DE KAMP
Attorney General

A handwritten signature in dark ink, appearing to read "Rich C. Jacobs", written over the typed name of Richard C. Jacobs.

RICHARD C. JACOBS
Special Assistant Attorney General

cc: Bill Davis