

Memorandum 90-37

Subject: Study F-1001 - Family Relations Code (or Act)

THE QUESTIONNAIRE

The Commission directed that a questionnaire be distributed to interested persons to obtain their views concerning whether there is a need for a new Family Relations Code (or Act) and, if so, what should be contained in the new code or act. A copy of the questionnaire is attached as Exhibit 1. A tabulation of the answers received on the relevant portions of the questionnaire is attached as Exhibit 2. A separate tabulation of the answers received from the judges is attached as Exhibit 3; a separate tabulation for court commissioners is attached as Exhibit 4; and a separate tabulation for certified legal specialists is attached as Exhibit 5.

The questionnaire was distributed to approximately 4,000 individuals. Distribution was made to all persons who receive Commission reports, to all certified family law specialists, to all members of the State Bar Family Law Section, to some social workers, and to other persons who requested a copy. A notice was published in legal newspapers that the Commission was studying this matter and that the questionnaire was available. Other methods were used to obtain the names of persons who might be interested in responding to the questionnaire. We received responses from all portions of the state.

This memorandum presents information obtained from the 666 responses to the questionnaires that had been received as of March 20. We do not anticipate that subsequently received questionnaires will affect the validity of the conclusions drawn from the questionnaires already received.

The overwhelming majority (89%) of the responses to the questionnaire came from practicing lawyers. Others responding included judges (19), court commissioners (13), and paralegals (5).

SHOULD THERE BE A NEW FAMILY RELATIONS CODE (OR ACT)?

Overwhelming Majority Favors New Code or Act

The great majority (83 percent) of those who responded favored a new code or act (532 vs 108). Only 17 percent wanted neither a new code or act. (4 percent had no opinion on the issue.)

The vast majority (91 percent) said their opinion concerning the need for a new code or act would not change if a Family Relations Court is NOT established. (Only 9 percent said there should be no Family Relations Code if there was no Family Relations Court.)

Of the 19 judges who responded, 16 (84 percent) favored a new code or act. Three wanted neither a new code or act. Of the 13 court commissioners who responded, 10 (77 percent) favored a new code or act. Three wanted neither a new code nor a new act.

Approximately Two-Thirds Favor New Code Over New Act

A clear majority (64 percent) of those who responded favored a new separate code over a new act that would be part of an existing code. (278 favored a new code as compared to 157 who favored a new act as part of an existing code; 97 favored both a new act and a separate new code, without a preference for one or the other). Of those who had a strong preference, 223 (62 percent) favored a new code as compared to 136 (38 percent) who favored a new act.

A slight majority (58 percent) of the judges who expressed a view favored a a new separate code over a new act that would be part of an existing code. (About 20 percent of the judges who favored a new code or act did not express a preference as to one or the other.) An overwhelming majority (90 percent) of the court commissioners who ~~expressed a view favored a new separate code, and a clear majority of~~ these (80 percent) strongly favored a new code (opposed a new act).

Staff Recommends New Code

There is overwhelming support among the persons who practice in the family law field that a new Family Relations Code or act is needed. Almost two-thirds of those who responded favored a new code over a new act. The staff shares this view and recommends that the Commission staff commence work on drafting a new Family Relations Code.

A Commission determination to prepare a new Family Relations Code (rather than a separate act in an existing code) would permit

preparation of a well organized code with a simple, understandable numbering system that would avoid the use of decimal numbers. If a new act were added to the Civil Code (a logical location for a new act), it would be necessary to begin the numbering of the new act with Section 8000, and most of the new act would be numbered using five digits. A new code could be prepared over a number of years, with each portion of the code enacted as work on that portion is completed. If the new revised portions are inserted into a new Family Relations Code as they are prepared, the practitioners will be able to use the new revised portions as they become operative without the confusion that resulted in the case of the Probate Code revision project.

Is the material to be included in a new code sufficient to justify a new code? Later in this memorandum, we consider the specific statutes that might be included in a new code. For now, it is sufficient to note that the provisions that clearly should be included in the new code or act constitute approximately 200 pages of statute text (about the same as the Evidence Code, which constitutes three volumes of the annotated codes). The annotated codes for the material that would clearly be included in the new Family Relations Code now consist of approximately three volumes of the annotated codes. The inclusion in the new code of additional material from the Welfare and Institutions Code (approximately two-thirds of those responding to the questionnaire favored included this material in the new code) would add material that now constitutes approximately one volume of the annotated codes. The staff believes that there is sufficient material that ultimately will be included in the new code or act to justify a new code.

PROVISIONS THAT MIGHT BE INCLUDED IN NEW CODE (OR ACT)

Civil Code Provisions

The vast majority of those who responded believe that the following Civil Code provisions should be included in the new code or act:

Family Law Act (§§ 4000-5317) (97 percent)

Uniform Civil Liability For Support Act (§§ 241--254) (97 percent)

Uniform Parentage Act (§§ 7000-7021) (96 percent)

Parent and Child (§§ 196-213) (96 percent)

Adoption (§§ 221-230.8) (91 percent)

Freedom From Parental Custody and Control (§§ 232-239) (91 percent)

Interstate Compact on Placement of Children (§§ 264-274) (91 percent)

Emancipation of Minors Act (§§ 60-70) (88 percent)

Priority for Foster Care and Adoptive Placement (§§ 275-276) (82 percent)

Medical Treatment of Minors (§§ 25-42 portions) (79 percent)

Minors' Contracts; Enlistment in Armed Forces (§§ 25-42 portions) (59 percent)

The staff recommends that the substance of all these provisions (perhaps with portions of particular provisions omitted) be included in the new code or act.

The staff recommends that the following provisions not be included in the new code or act, even though their inclusion was favored by the persons responding to the questionnaire:

Liability of Parents and Guardians for Acts of Minors (§§ 1714.1, 1714.3) (65 percent)

Wrongs Not Actionable (promise to marry, alienation of affection, and the like) (§§ 43.4, 43.5, 43.55, 43.6) (55 percent)

~~**Acts Forbidden by Rights of Personal Relations (§ 49) (61 percent)**~~

A review of the provisions listed above suggests that they are best located where they are now located. However, in the course of the work on the new code or act, the staff will again review these provisions for possible inclusion in the new code or act.

A majority (60 percent) favored not including in the new code or act the Civil Code provision (§ 48.7) relating to libel or slander actions while a child abuse charges are pending. The staff recommends

that this section not be included in the new code or act, but we will review this section for possible inclusion during the course of the work on the new code of act.

A clear majority (69 percent) favored not including in the new code or act the Civil Code provisions (§§ 25-42 portions) relating to conveyances or contracts by persons without understanding or of unsound mind, and other matters. The staff recommends that these provisions not be included. Since we will be moving most of the material in the portion of the Civil Code containing these provisions, it may be necessary to redraft and reorganize the provisions relating to conveyances or contracts by persons without understanding or of unsound mind.

Code of Civil Procedure Provisions

There was overwhelming support for including in the new code the Code of Civil Procedure provisions listed in the questionnaire:

Family Conciliation Court Law (§§ 1730-1772) (96 percent)

Uniform Reciprocal Enforcement of Support Act (§§ 1650-1699.4) (95 percent)

The staff recommends that these provisions be included in the new code or act.

The questionnaire provided space for a respondent to list other statutes that might be included in the new code or act. A number of persons suggested that the Domestic Violence Prevention Act (Code Civ. Proc. §§ 540-553) be included in the new code or act. The staff recommends that this statute be included in the new code or act.

Persons completing the questionnaire listed various other Code of Civil Procedure provisions they believed should be included in whole or in part in the new code or act: Sections 527, 527.6, 529, 545, 546, 550, 1209.5, 1275-1279.5. In preparing the new code or act, the staff will review these provisions (along with other relevant provisions) to determine whether the provisions should be included in the new code or act.

Evidence Code Provisions

Half of those responding believe that none of the Evidence Code provisions should be moved to the new code or act. In no case did a majority of those responding believe that any particular Evidence Code

provision should be included in the new code or act. The great majority (68 percent) of the judges who responded to the questionnaire were of the view that the Evidence Code provisions should not be moved to the new code or act. The staff recommends that none of the Evidence Code provisions be moved to the new code or act.

Probate Code Provisions

A clear majority (59 percent) were of the view that none of the Probate Code provisions should be moved into the new code or act.

The judges (58 percent) were also opposed to moving any Probate Code provisions into the new code or act. At least three-fourths of the judges were against moving each of the provisions listed in the questionnaire into the new code or act.

The staff recommends that none of the Probate Code provisions be moved to the new code or act. The major portion of the Probate Code provisions relating to guardianship and conservatorship concern the management of the estate. These provision are closely related to the provisions dealing with management of the estate of a decedent. These comparable provisions should be included in the same code. In addition, there are numerous Probate Code provisions dealing with other matters and these apply both to guardians and conservators. With respect to these provisions, the staff believes that it would be a serious mistake to move the guardianship portion of the provision out of the Probate Code. If the provisions relating to guardians were moved to a new code, it would be necessary to retain the provisions relating to conservators in the Probate Code and to provide duplicate ~~provisions relating to guardians in the new code.~~ This would significantly increase the bulk of the statutes. In addition, over a period of time amendments to one code or the other would result in differences between the comparable provisions. To avoid differences, it would be necessary to amend two sections whenever a defect is to be corrected or a necessary revision made.

Welfare and Institutions Provisions

A strong majority favored moving to the new code or act the provisions of the Welfare and Institutions Code providing for:

District attorney enforcement of child support (Welfare and Institutions Code §§ 11475-11492.1) (84 percent)

The staff recommends that these provisions be included in the new code or act.

A clear majority favored moving the following Welfare and Institutions Code provisions into the new code or act:

Dependent Children Under Juvenile Court Law (§§ 200-987) (65 percent)

Interstate Compact on Juveniles (§§ 1300-1308) (63 percent)

Wards Under Juvenile Court Law (§§ 200-987) (61 percent)

The policy issue is whether the Juvenile Court Law should be a part of the new Domestic Relations Code or Act. The resolution that directed the Commission to make this study excluded from the statutes to be reviewed "proceedings initiated under Section 602 of the Welfare and Institutions Code" (minors violating laws defining crime). The provisions that might be compiled in the new code or act relate to dependent, neglected, and out of control (noncriminal) children. The great majority (80 percent) of the judges favored moving the Juvenile Court provisions into the new code or act. The staff recommends that a tentative decision be made to include the Juvenile Court Law (excluding Section 602 cases) in the new code or act. Later, when the Juvenile Court Law provisions are studied with a view to including them in the new code, this decision can be reviewed in light of the information then available.

A majority (63 percent) favored inclusion of the Interstate Compact on Juveniles in the new code or act. This compact should be included in the same code as the Juvenile Court Law.

Additional Provisions

The questionnaire asked whether the responder had any suggestions for additional statutes to be included in the new code or act. For the most part, the suggestions covered matters previously listed in the questionnaire or proposed significant substantive changes in existing law. For the suggestions made, see Exhibit 6 attached.

METHOD OF PROCEDURE FOR DRAFTING NEW CODE OR ACT

Preparation of Series of Recommendations

The staff suggests that the Commission follow basically same procedure in preparing the new code or act that it has used in preparing the new Probate Code. One portion of the new code or act would be given priority and a recommendation concerning that portion would be prepared. The recommendation would be submitted to the Legislature and that portion enacted. Additional portions would be the subject of separate recommendations from time to time, until work on the new code or act was completed. If the Commission determined to prepare a new code, each portion could be added to the new code with section numbers assigned that would remain unchanged as additional portions are added to the new code. Each portion would become operative at the time it was added to the new code. When all of the provisions of the new code had been added to the new code, the new code would be complete; it would be unnecessary to repeal the provisions and enact a new code. The need for complex transitional provisions would be avoided.

Organization of New Code or Act

The staff-suggested organization of the provisions we believe should be included in the new code or act is set out later in this Memorandum. (Any such organization must necessarily be subject to revision as work on various aspects of the new code or act proceeds.) The staff plan for organization of the new code or act should be reviewed (and perhaps be revised) by the Commission in light of the comments of interested persons and organizations.

Recodification of Existing Law

The staff believes that the Commission's objective should be to prepare a well organized and well drafted code or act. No attempt would be made to review the substantive policy issues presented by the various provisions. No significant substantive revisions would be suggested, although various technical and minor clarifications or technical revisions would be suggested. Procedural provisions would be carefully reviewed with a view to making them consistent. We believe this is consistent with the legislative directive to the Commission to undertake this study.

Relationship With State and Local Bar Associations

Obviously, it will be essential to establish a close working relationship with the Family Law Section of the State Bar. We would anticipate that the Commission would have the views of the Family Law Section concerning each portion of the new code or act at the time the staff presents that portion to the Commission for review, revision, and approval. The staff believes that the Family Law Section will need to develop procedures that will assure that staff-prepared work is carefully and timely reviewed by Section so that the comments of the Section are available at the time the staff-prepared material is considered by the Commission. The Family Law Section may find it useful to consider the procedures that have been used by the Estate Planning, Trust and Probate Law Section in connection with the probate law study. The staff believes that the Commission should seek to establish a close working arrangement with the Family Law Section as soon as possible. The Commission's Chairperson has written to the Chair of the Family Law Section soliciting the assistance and cooperation of the Section.

The staff also believes that the Commission should make an effort to obtain the assistance of the Family Law section or committee of local bar associations, especially Los Angeles.

The staff believes it would be useful if we could have a group of judges who would individually read and submit comments on staff prepared materials. Consideration should be given to how we should select and encourage the judges to assist and cooperate in preparing the new code or act.

Law Professor Consultants

When we commenced work on the Probate Code, we retained seven law professors as consultants. These consultants reviewed meeting materials and provided their comments to the Commission on some of the meeting materials. They did not receive any compensation for their services as consultants, but the contracts we made with them did permit us to pay their travel expenses in attending Commission meetings if we asked them to attend. Some of the consultants attended one or more meetings. For example, Edward C. Halbach Jr (U.C. Berkeley Law School) attended a number of meetings, and he made a significant contribution to the Probate Code project.

The staff suggests that we retain a number of law professors as consultants on the Family Relations Code project. We make our suggestions for possible consultants in a separate memorandum.

The Commission may determine that an expert consultant is necessary in connection with a particular portion of the Family Relations Code study. If the consultant is expected to prepare a background study or to devote considerable time to the work, we will need to provide compensation in addition to travel expenses. We do not at this time recommend that any consultants be retained to prepare background studies on particular portions of the new code or act.

OUTLINE OF NEW CODE

Assuming that the Commission will decide to draft a new Family Relations Code (rather than a new act that will be part of an existing code), how should the new code be organized? It is useful at this time to develop a tentative organization of the new code, so that portions can be numbered for inclusion in the new code as work on the portion is completed. It must be recognized, however, that any plan for organization of the new code necessarily will be subject to revision during the course of the project.

We anticipate that there will be substantial revisions in the outline as provisions relating to particular portions of the outline are developed. In some areas of law, such as support obligations, the law is found in various places in the codes and much of it is obsolete and may be superseded by later enacted statutes. It will be a substantial undertaking to review all the relevant provisions, to ~~determine those that have not been superseded, and to provide a clear~~ statement of the current law. We also anticipate that we will discover additional relevant provisions as we work on particular portions of the new code.

The staff suggests the following as a starting point for developing an outline of the new code.

FAMILY RELATIONS CODE

DIVISION 1. PRELIMINARY PROVISIONS AND DEFINITIONS (§§ 1-199)

Part 1. Preliminary Provisions (§§ 1-99)

Part 2. Definitions (§§ 100-199)

DIVISION 2. GENERAL PROVISIONS (§§ 200-2999)

Part 1. Termination of Marriage and Jurisdiction (CC §§ 4350-4353)

Part 2. Procedural Provisions (CC §§ 4001, 4355-4365)

Part 3. Provisions for Attorneys' Fees and Costs (CC §§ 4370-4371)

Part 4. Enforcement of Judgments, Orders and Decrees (CC §§ 4380-4385)

Part 5. Wage Assignment for Support (CC §§ 4390-4390.19) (This material might be included under Part 4 above or under Division 10 (Obligation to Support).)

Part 6. Domestic Violence Prevention Act (CCP §§ 540-553)

Part 7. Family Conciliation Court Law (CCP §§ 1730-1772)

Part 8. Statewide Coordination of Family Mediation and Conciliation Services (CC §§ 5180-5183)

Part 9. Uniform Divorce Recognition Act (CC §§ 5000-5004)

DIVISION 3. MINORS (§§ 3000-3999)

Part 1. Minors Generally (CC §§ 25, 26, 27, 29, 25.1, 42) (consider H & S Code § 1530.6, 1795.14; CCP 376)

Part 2. Medical Treatment of Minors (CC §§ 25.5-25.9, 34.5-34.10)

Part 3. Minor's Capacity to Contract (CC §§ 33-34, 35-37)

Part 4. Emancipation of Minors Act (CC §§ 60-70)

~~Part 5. Minor's Civil Liability for Wrong (CC § 41)~~

DIVISION 4. MARRIAGE (§§ 4000-4099)

Part 1. Validity of Marriage (CC §§ 4100-4104)

Part 2. Authentication of Marriage (CC §§ 4200-4216)

Part 3. Premarital Examination (CC § 4300-4309)

DIVISION 5. HUSBAND AND WIFE (§§ 4100-4499)

Part 1. General Provisions (CC §§ 5100-5103)

Part 2. Characterization of Marital Property (CC §§ 5107-5119)

- Part 3. Liability of Marital Property (CC §§ 5120.010-5122)
- Part 4. Management and Control of Marital Property (CC §§ 5125-5132)
- Part 5. Marital Agreements
 - Chapter 1. General Provisions (CC §§ 5200-5203)
 - Chapter 2. Uniform Premarital Agreement Act (CC §§ 5300-5317)

DIVISION 6. JUDICIAL DETERMINATION OF VOID OR VOIDABLE MARRIAGE
(§§ 4500-4699)

- Part 1. Void Marriage (CC §§ 4400-4401)
- Part 2. Voidable Marriage (CC §§ 4425-4429)
- Part 3. Supplementary Provisions (CC 4450-4458)

DIVISION 7. DISSOLUTION OF MARRIAGE (§§ 4700-5499)

- Part 1. General Provisions (CC §§ 4501-4516)
- Part 2. Residence Requirements (CC §§ 4530-4531)
- Part 3. Summary Dissolution (CC §§ 4550-4556)
- Part 4. Property Rights of the Parties (CC 4800-4813)

DIVISION 8. PARENT AND CHILD RELATIONSHIP (§§ 5500-5599)

- Part 1. Uniform Parentage Act (CC §§ 7000-7021)

DIVISION 9. CUSTODY OF CHILDREN (§§ 5600-5999)

- Part 1. General Provisions (CC §§ 197-204, 211-213, 4600-4610)
- Part 3. Action to Free Child From Parental Custody and Control (CC §§ 232-239)
- Part 4. Interstate Compact on the Placement of Children (CC §§ 264-274)
- ~~Part 5. Priorities of Foster Care and Adoptive Placement (CC §§ 275-276)~~
- Part 6. Uniform Child Custody Jurisdiction Act (CC §§ 5150-5174)

DIVISION 10. OBLIGATION TO SUPPORT (§§ 6000-6499)

- Part 1. Uniform Civil Liability for Support Act (CC §§ 241-254)
- Part 2. General Provisions Relating to Support (CC §§ 196, 196a, 196.5, 201, 205-210, 242, 5131-5132)
- Part 3. Support of Children (CC §§ 4700-4709)
- Part 4. Uniform Reciprocal Enforcement of Support Act (CCP §§ 1650-1699.4)

Part 5. Other Provisions Relating to Enforcement of Support

Chapter 1. Enforcement by State and Local Agencies (W & I C
§§ 11475-11492.1)

Chapter 2. Agnos Child Support Standards Act (CC §§
4720-4732)

Chapter 3. Child Support Delinquency Reporting (CC §§
4750-4752)

DIVISION 11. JUVENILE COURT LAW (EXCLUDING W & I CODE § 602 CASES)

(§§ 6500-7999)

(W & I Code §§ 200-987 (relevant portions) includes
Interstate Compact on Juveniles -- W & I Code §§ 1300-1308)

DIVISION 12. ADOPTION (§§ 8000-8999)

(CC §§ 221-230.8)

STAFF SUGGESTED PRIORITIES IN DRAFTING NEW CODE OR ACT

The staff recommends that the first portion of the new code or act to be drafted be the portion relating to minors. A recodification of this statutory material would substitute a simple, short statute for the repetitious, poorly organized, complex provisions that now exist. We also would draft the Preliminary Provisions portion of the new code or act at the same time.

The provisions relating to minors are not interrelated to other statutory provisions. Recodification of the provisions would require ~~great drafting skill, but it does not appear that the various existing~~ provisions are inconsistent. If we do this portion first, we could develop our working procedures with the State Bar and others before we go on to more complex portions where the law may be uncertain. We also could make interested persons aware that the Commission is not engaged in a project looking toward making major substantive changes in the law.

If the Commission agrees that it would be reasonable to commence the project by working first on the provisions relating to minors, the staff is ready to commence work on that portion. We do not believe that we would need a background study by a consultant on this portion.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

California Law Revision Commission

FAMILY RELATIONS LAW QUESTIONNAIRE

(Please feel free to make copies for use by other interested persons.)

The 1989 Legislature directed the Law Revision Commission to make recommendations regarding the establishment of a Family Relations Code. See Assembly Concurrent Resolution No. 30 (copy attached). An examination of this resolution will give you a better understanding of the scope of this study. Your answers to this questionnaire will assist the Commission in this study.

Please fill in your name, address, and telephone number:

(Name)

(Address)

(City, State, Zip Code)

(Telephone #)

THE COMMISSION'S ASSIGNMENT

The Commission's assignment does *not* involve a review of the *substance* of the various provisions that might be included in the new code (or a new separate Family Relations Act). Rather, preparation of the new code (or Act), if one is prepared, will primarily involve:

- Determining the provisions to be included.
- Organizing the provisions in the new code (or Act).
- Consolidating provisions where appropriate.
- Eliminating redundancies where appropriate.
- Using consistent language throughout the new code (or Act).
- Making the provisions consistent with each other where appropriate.
- Improving the drafting style and form of the provisions.

Some procedural revisions will be considered in the course of the Commission's study, such as (1) whether revisions should be recommended to ensure that appropriate information is exchanged among courts and investigative or other agencies serving the courts and (2) whether related actions should be integrated where appropriate.

The Commission's study will not consider the issue of whether there should be a separate family relations court. That issue is now under study by a separate body—the Senate Task Force on Family Relations Court. Your views concerning the desirability of a *separate family relations court* should be directed to the Senate Task Force, rather than to the Commission.

Circle YES or NO to indicate your opinion on the following questions.

NEED FOR FAMILY RELATIONS CODE

YES NO Should there be a comprehensive Family Relations Act as part of an *existing* code?

YES NO Should there be a *separate* Family Relations Code?

YES NO If you answered "YES" to either of the previous questions, do you believe that there should be a Family Relations Code (or Act) even if the Legislature does not establish a Family Relations Court?

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CONTENT OF FAMILY RELATIONS CODE (OR ACT)

Assuming that there will be a separate Family Relations Code (or Act), which of the existing statutes listed below should be included in it?

Civil Code

- (1) YES NO Medical treatment of minors (see §§ 25-42)
- (2) YES NO Minors' contracts; enlistment in armed forces (see §§ 25-42)
- (3) YES NO Conveyances or contracts by persons without understanding or of unsound mind, and other matters (see §§ 25-42)
- (4) YES NO Wrongs not actionable (promise to marry, alienation of affection, and the like) (§§ 43.4, 43.5, 43.55, 43.6)
- (5) YES NO Libel or slander action while child abuse charges pending (§ 48.7)
- (6) YES NO Acts forbidden by rights of personal relations (§ 49)
- (7) YES NO Emancipation of Minors Act (§§ 60-70)
- (8) YES NO Parent and child (§§ 196-213)
- (9) YES NO Adoption (§§ 221-230.8)
- (10) YES NO Freedom from parental custody and control (§§ 232-239)
- (11) YES NO Uniform Civil Liability for Support Act (§§ 241-254)
- (12) YES NO Interstate Compact on Placement of Children (§§ 264-274)
- (13) YES NO Priority for foster care and adoptive placement (§§ 275-276)
- (14) YES NO Liability of parents and guardians for acts of minors (§§ 1714.1, 1714.3)
- (15) YES NO Family Law Act (§§ 4000-5317)
- (16) YES NO Uniform Parentage Act (§§ 7000-7021)

Code of Civil Procedure

- (17) YES NO Uniform Reciprocal Enforcement of Support Act (§§ 1650-1699.4)
- (18) YES NO Family Conciliation Court Law (§§ 1730-1772)

Evidence Code

- (19) Check here ☐ if you believe that none of the Evidence Code provisions should be moved into the new Code (or Act)
- (20) YES NO Presumption of legitimacy (§ 621)
- (21) YES NO Leading questions of minor under 10 (§ 767)
- (22) YES NO Blood test to determine paternity (§ 890)
- (23) YES NO Privileges (e.g. § 1037)
- (24) YES NO Hearsay exceptions as to minors (e.g. § 1228)

Probate Code

- (25) Check here ☐ if you believe that none of the Probate Code provisions should be moved into the new Code (or Act)

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- (26) YES NO Surviving spouse's waiver of rights at death (§§ 140-147)
- (27) YES NO Guardian of person of minor (see §§ 1400-2944)
- (28) YES NO Guardian of estate of minor (see §§ 1400-2944)
- (29) YES NO Conservatorship of person of adult (see §§ 1400-2944)
- (30) YES NO Conservatorship of estate of adult (see §§ 1400-2944)
- (31) YES NO Management or disposition of community property where spouse lacks legal capacity (§§ 3000-3154)
- (32) YES NO Other protective proceedings (§§ 3300-3612)
- (33) YES NO Personal property of absent federal personnel (§§ 3700-3720)
- (34) YES NO Temporary possession of family dwelling and exempt property (§§ 6500-6501)
- (35) YES NO Setting aside exempt property other than family dwelling (§§ 6510-6511)
- (36) YES NO Probate homestead (§§ 6520-6628)
- (37) YES NO Family allowance (§§ 6540-6645)
- (38) YES NO Spouse or child unprovided for in will (§§ 6560-6680)
- (39) YES NO Small estate set-aside (§§ 6600-6615)

Welfare & Institutions Code

- (40) YES NO Dependent children under Juvenile Court Law (§§ 200-987)
- (41) YES NO Wards under Juvenile Court Law (§§ 200-987)
- (42) YES NO Interstate Compact on Juveniles (§§ 1300-1308)
- (43) YES NO District attorney enforcement of child support

List any other statutes or subjects that you believe should be included in a new Family Relations Code (or Act).

You may answer the following questions in the space provided or attach separate sheets as needed.

REVISION OF FAMILY RELATIONS LAW STATUTES

1. Do you have any specific suggestions for consolidating related laws in this area, making them more consistent, or eliminating redundancies? Do you see any problems in making these types of revisions and, if so, what are they?

2. Do you have any thoughts on what information concerning family relations matters should (or should not) be exchanged between courts and investigative and other agencies, and how this might best be accomplished?

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3. From your experience, are you aware of any problems that occur in practice that should be remedied in the new code (or Act)? Are analogous situations treated differently, depending on the procedural framework? It would be helpful if you suggest solutions to any problems that you see.

If you have any other suggestions concerning the family relations law revision project, the Commission would like to hear them.

TENTATIVE DRAFTS

If the Commission decides to draft a new code (or Act), the Commission may, from time to time, distribute tentative drafts of portions of the new code (or Act) to interested persons and organizations for review and comment. You can receive copies of these tentative drafts if you are willing to review and comment on them.

YES NO I want to review and comment on tentative drafts of portions of the new code (or Act). (If you fail to send comments, you will be dropped from the list of persons who receive the drafts.)

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INFORMATION ABOUT YOU AND YOUR PRACTICE

A. Role you play in the legal system

Check the box or boxes that best describe you.

- | | | | |
|-----------------------------|--------------------------|------------------------------|--------------------------|
| (a) Practicing lawyer | <input type="checkbox"/> | (d) Court commissioner .. | <input type="checkbox"/> |
| (b) Judge | <input type="checkbox"/> | (e) Paralegal | <input type="checkbox"/> |
| (c) Social worker | <input type="checkbox"/> | (f) Court investigator | <input type="checkbox"/> |

Other (please describe) _____

B. Years of practice (judge or lawyer)

Check the box that indicates the number of years you have been engaged in law practice (including judicial)

- | | | | |
|---------------------------|--------------------------|-----------------------------|--------------------------|
| (a) 5 years or less | <input type="checkbox"/> | (d) 16 to 20 years | <input type="checkbox"/> |
| (b) 6 to 10 years | <input type="checkbox"/> | (e) 21 to 25 years | <input type="checkbox"/> |
| (c) 11 to 15 years | <input type="checkbox"/> | (f) More than 25 years | <input type="checkbox"/> |

C. Locality in which you practice

Check the box that best describes the locality in which you practice.

Southern California

- | | |
|--------------------------|--------------------------|
| (a) Los Angeles | <input type="checkbox"/> |
| (b) San Diego | <input type="checkbox"/> |
| (c) Riverside | <input type="checkbox"/> |
| (d) San Bernardino | <input type="checkbox"/> |
| (e) Orange County | <input type="checkbox"/> |
| (f) Long Beach | <input type="checkbox"/> |
| (g) Other city | <input type="checkbox"/> |
| (name) _____ | |
| (h) Rural area | <input type="checkbox"/> |
| (county) _____ | |

Northern California

- | | |
|-------------------------|--------------------------|
| (i) Oakland | <input type="checkbox"/> |
| (j) San Francisco | <input type="checkbox"/> |
| (k) San Jose | <input type="checkbox"/> |
| (l) Sacramento | <input type="checkbox"/> |
| (m) Stockton | <input type="checkbox"/> |
| (n) Santa Cruz | <input type="checkbox"/> |
| (o) Other city | <input type="checkbox"/> |
| (name) _____ | |
| (p) Rural area | <input type="checkbox"/> |
| (county) _____ | |

D. Size of law firm in which you practice

- | | | | |
|-----------------------------|--------------------------|-----------------------------|--------------------------|
| (a) Sole Practitioner | <input type="checkbox"/> | (c) 10-29 Attorney Firm .. | <input type="checkbox"/> |
| (b) 2-9 Attorney Firm | <input type="checkbox"/> | (d) 30 + Attorney Firm | <input type="checkbox"/> |

E. Are you a certified legal specialist?

Yes ☐ No ☐

If so, name the specialty _____

F. If you are a judge, do you serve in a particular department?

Yes ☐ No ☐

If so, name the department _____

Please return your completed questionnaire and any other comments to:

California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

If you have any questions concerning this material, you may call the Commission's staff at (415) 494-1335.

Assembly Concurrent Resolution No. 30

RESOLUTION CHAPTER 70

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

[Filed with Secretary of State July 7, 1989.]

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 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.

FAMILY RELATIONS LAW QUESTIONNAIRE SUMMARY

Questionnaires received: 666
Out of 4,246 questionnaires sent.

NEED FOR NEW CODE OR ACT

	Yes ---	No ---	Blank ----
Family Relations as part of existing Code?	254 43%	331 57%	81
Separate Family Relations Code?	375 60%	246 40%	45
FR Code if NO Family Relations Court?	495 91%	51 9%	120
Do NOT want either an Act or a separate Family Relations Code:			108 16%
Do NOT want a separate Code - no opinion on an Act:			2 0%
Do NOT want an Act - no opinion on separate Code:			0 0%

Total Opposed:			110 17%
DO want either an Act or a separate Family Relations Code:			532 83%
Strongly favor an Act as part of an existing Code:			136 26%
Favor an Act as part of an existing Code:			21 4%

Total:			157 30%
Strongly favor a SEPARATE Family Relations Code:			223 42%
Favor a SEPARATE Family Relations Code:			55 10%

Total:			278 52%
Favor BOTH an Act and a separate Code - don't care which:			97 18%
Have no opinion - left both questions blank:			24

CONTENT OF FAMILY RELATIONS CODE (OR ACT)

	Yes ---	No ---	Blank ----
<u>Civil Code</u>			
Medical treatment of minors	485 79%	131 21%	50
Minors contracts, enlistment in armed force	359 59%	250 41%	57
Conveyances or contracts (unsound mind) ...	184 31%	409 69%	73
Wrongs not actionable	337 55%	276 45%	53
Libel or slander (abuse charges pending) ..	245 40%	362 60%	59
Acts forbidden by rights of pers. relations	350 61%	228 39%	88
Emancipation of Minors Act	552 88%	75 12%	39
Parent and child	608 96%	28 4%	30

Adoption	579	91%	56	9%	31
Freedom from parental custody & control ...	579	91%	54	9%	33
Uniform Civil Liability for Support Act ...	612	97%	20	3%	34
Intstate Compact on Placement of Children .	569	91%	58	9%	39
Priority for foster care & placement	513	82%	112	18%	41
Liability of parent & guardian for acts ...	408	65%	220	35%	38
Family Law Act	621	97%	19	3%	26
Uniform Parentage Act	617	96%	23	4%	26
<u>Code of Civil Procedure</u>					
Uniform Reciprocal Enforcement of Support .	608	95%	29	5%	29
Family Conciliation Court Law	612	96%	24	4%	30
<u>Evidence Code</u>					
NO Evidence Code Provisions in Code	330	50%	336	50%	
Presumption of legitimacy	297	47%	341	53%	28
Leading questions of minor under 10	181	29%	448	71%	37
Blood test to determine paternity	313	49%	332	51%	21
Privileges	198	31%	431	69%	37
Hearsay exceptions to minors	191	30%	443	70%	32
<u>Probate Code</u>					
NO Probate Code provisions in new Code	392	59%	274	41%	
Surviving spouses waiver of rights	123	20%	502	80%	41
Guardian of person of minor	225	35%	420	65%	21
Guardian of estate of minor	206	32%	435	68%	25
Conservatorship of person of adult	116	19%	510	81%	40
Conservatorship of estate of adult	112	18%	512	82%	42
Management or disposition of comm property	199	31%	446	69%	21
Other protective proceedings	126	21%	485	79%	55
Personal prop. of absent federal personnel	78	13%	543	87%	45
Temp. possession of family dwelling	155	24%	481	76%	30
Setting aside exempt property other	103	16%	525	84%	38
Probate Homestead	93	15%	533	85%	40
Family Allowance	115	18%	514	82%	37
Spouse or child unprovided for in will	94	15%	535	85%	37
Small estate set-aside	70	11%	553	89%	43
<u>Welfare & Institutions Code</u>					
Dependent children under Juvenile Ct Law ..	366	65%	199	35%	101
Wards under Juvenile Court Law	340	61%	220	39%	106
Interstate Compact on Juveniles	354	63%	205	37%	107
District Attorney enforcement of child supp	489	84%	94	16%	83

ROLE YOU PLAY IN THE LEGAL SYSTEM

Practicing Lawyer	592	89%
Judge	19	3%
Social Worker	1	0%
Court Commissioner	13	2%
Paralegal	5	1%
Court Investigator	0	0%

Other	24	4%
100% Family Law Practice	1	
Also Judge Pro Tempore	1	
and Leg. advocate	1	
Attorney - Mediator	1	
Board of Governors, State Bar	1	
C P A	1	
Consultan	1	
Counsel To Board	1	
Deputy County Counsel	1	
District Attorney	1	
Family Law & Juvenile Appeals	1	
Family Law Spec. for legal pub	1	
Family Law; W&I 5250 Hearing Officer	1	
General Counsel-firm	1	
Judge Pro Tem	2	
Judge Pro Tem - Family Law	4	
Judge Pro Tem - Muni Court	1	
Judge Pro Tem - Van Nuys	1	
Judge Pro Tem occasionally	1	
Judge Pro Tempore	1	
Judge Pro Tem Domestic Relations	1	
Judicial Attorney	1	
L.A. City Attorney (pensions)	1	
Law Librarian	4	
Law Professor	2	
Legal Aid Agency	1	
Legal Editor	3	
Legal Publisher	1	
Legal Writer - Family Law	1	
Legislative Analyst	1	
Mediator	1	
Part-time Law Professor	1	
Pgm Mgr - Child Welfare Services (CPS)	1	
Pro Tem - Family Law	1	
Pro Tem Judge	1	
Pro Tem Judge-family	1	
Probate Referee	1	
Professor	1	
Professor Of Law	1	
Public Guardian/Administrator	1	
Retired Superior Court Judge	1	
Sit as Pro Tem	1	
No Answer	12	2%

YEARS OF PRACTICE (JUDGE OR LAWYER)

5 years or less	45	7%
6 to 10 years	97	15%
11 to 15 years	171	26%
16 to 20 years	125	19%
21 to 25 years	78	12%

More than 25 years	129	19%
No Answer	21	3%

LOCALITY IN WHICH YOU PRACTICE

Southern California

Los Angeles	192	29%
San Diego	41	6%
Riverside	9	1%
San Bernardino	8	1%
Orange County	53	8%
Long Beach	10	2%
Other City	<u>38</u>	6%
(Omitted)	2	
Bakersfield	2	
Beverly Hills	3	
Camarillo	1	
Camarillo - Ventura - Oxnard	1	
Century City/Beverly Hills	1	
Glendale	2	
La Habra	1	
Oxnard	1	
Pasadena	3	
Pomona	1	
San Luis Obispo	2	
Santa Barbara	5	
Santa Monica	1	
Thousand Oaks	1	
Torrance	4	
Upland-Ontario	1	
Ventura	3	
Victorville	1	
Vista	1	
Westlake Village	1	
Rural Area	<u>9</u>	1%
Kern County	1	
Riverside County	2	
San Bernardino County	1	
Tulare County	1	
Ventura County	4	

Northern California

Oakland	26	4%
San Francisco	49	7%
San Jose	39	6%
Sacramento	33	5%
Stockton	2	0%
Santa Cruz	2	0%
Other City	<u>96</u>	14%
(Omitted)	1	
Alameda	1	

Antioch	1	
Auburn	1	
Berkeley & Richmond	1	
Concord	1	
Danville	1	
Davis	1	
Eureka	2	
Fairfield	2	
Fremont	3	
Fresno	13	2%
Honolulu, Hawaii	1	
Lafayette	1	
Livermore	1	
Mariposa	1	
Martinez	1	
Menlo Park	2	
Merced	2	
Modesto	5	
Monterey	2	
Mountain View	2	
Napa	1	
Nevada City	1	
Novato	1	
Orinda	1	
Palo Alto	4	
Pittsburg	1	
Placerville	1	
Pleasanton	1	
Redding	2	
Redwood City	3	
Richmond	2	
Roseville	1	
Salinas	2	
San Anselmo	1	
San Mateo	5	
San Rafael	6	
San Ramon	1	
Santa Rosa	5	
Tiburon-Belvedere	1	
Vacaville	1	
Visalia	1	
Visalia/Hanford	1	
Walnut Creek	5	
Walnut Creek, Martinez	1	
Woodland	1	
Rural Area	<u>50</u>	8%
Butte County	3	
Contra Costa County	9	
Del Norte County	1	
El Dorado County	2	
Humboldt County	5	
Kings County	1	
Lake County	1	
Marin County	1	

Merced County	1	
Monterey County	1	
Nevada County	7	
Placer/Nevada Counties	1	
Plumas County	1	
San Mateo County	4	
Shasta County	1	
Siskiyou County	1	
Solano County	3	
Sonoma County	3	
Yolo County	2	
Yuba County	1	
Yuba/Sutter Counties	1	
No Answer	9	1%

SIZE OF LAW FIRM IN WHICH YOU PRACTICE

Sole Practitioner	302	45%
2-9 Attorney Firm	257	39%
10-29 Attorney Firm	25	4%
30 + Attorney Firm	23	3%
No Answer	59	9%

ARE YOU A CERTIFIED LEGAL SPECIALIST?

Yes	159	24%
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Specialty:

(Omitted)	9	
Criminal Law	1	
Family Law	140	21%
Family Law & Criminal Law	1	
Family Law, Taxation	1	
Immigration	1	
Tax	1	
Taxation	3	
Taxation (Estate Planning)	1	
Taxation-probate	1	

No	462	69%
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No Answer	45	7%
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IF YOU ARE A JUDGE, DO YOU SERVE IN A PARTICULAR DEPARTMENT?

Yes	28	4%
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Civil now, 5 years in family	1
Department A	1
Department J, Commissioner	1
Dept. 27 - Family Law	1
Dept. 2A Central LA	1
Dept. 60, LA Superior Court	1

Family Law	11	
Family Law (Dept. J, Van Nuys)	1	
Family Law 5 Years	1	
Family Law Department	1	
Family Law Dept.	1	
Family Law Judge Pro Tem	1	
Family Law Panel	1	
Judge Pro Tempore - Family Law	1	
Juvenile / Family	1	
Juvenile Law 2 yrs then Family	1	
NW "J" & NW "K" (pro tem)	1	
PJ;81-84 Family Law 12000 case	1	
No	4	1%
Not a Judge	634	95%

Family Relations Law Questionnaire Summary Report

Printed on 03/21/90

Questionnaires received (JUDGES ONLY):

19

Out of 4,246 questionnaires sent.

	Yes	Yes %	No	No %	Blank
Family Relations as part of existing Code?	9	50%	9	50%	1
Separate Family Relations Code?	11	58%	8	42%	0
FR Code if NO Family Relations Court?	16	100%	0	0%	3
Do NOT want either an Act a separate Family Relations Code:				3	16%
Do NOT want a separate Code - no opinion on an Act:				0	0%
Do NOT want an Act - no opinion on separate Code:				0	0%
Total Opposed:				3	16%
DO want either an Act or a separate Family Relations Code:				16	84%
Strongly favor an Act as part of an existing Code:				5	31%
Favor an Act as part of an existing Code:				0	0%
Total:				5	31%
Strongly favor a SEPARATE Family Relations Code:				6	38%
Favor a SEPARATE Family Relations Code:				1	6%
Total:				7	44%
Favor BOTH an Act and a separate Code - don't care which:				4	25%
Have no opinion - left both questions blank:				0	

Summary Report - Content of Family Relations Code (or Act)
 Printed on 03/20/90

	Yes	Yes %	No	No %	Blank
Civil Code					
Medical treatment of minors	13	76%	4	24%	2
Minors contracts, enlistment in armed forces	12	75%	4	25%	3
Conveyances or contracts (unsound mind)	6	38%	10	63%	3
Wrongs not actionable	7	44%	9	56%	3
Libel or slander (abuse charges pending)	7	41%	10	59%	2
Acts forbidden by rights of personal relations	9	60%	6	40%	4
Emancipation of Minors Act	14	82%	3	18%	2
Parent and child	17	100%	0	0%	2
Adoption	15	88%	2	12%	2
Freedom from parental custody & control	16	94%	1	6%	2
Uniform Civil Liability for Support Act	17	100%	0	0%	2
Intstate Compact on Placement of Children	15	88%	2	12%	2
Priority for foster care & placement	13	76%	4	24%	2
Liability of parent & guardian for acts	12	71%	5	29%	2
Family Law Act	17	100%	0	0%	2
Uniform Parentage Act	17	100%	0	0%	2
Code of Civil Procedure					
Uniform Reciprocal Enforcement of Support	17	100%	0	0%	2
Family Conciliation Court Law	17	100%	0	0%	2
Evidence Code					
NO Evidence Code Provisions in Code	13	68%	6	32%	
Presumption of legitimacy	4	22%	14	78%	1
Leading questions of minor under 10	3	17%	15	83%	1
Blood test to determine paternity	5	28%	13	72%	1
Privileges	3	17%	15	83%	1
Hearsay exceptions to minors	3	17%	15	83%	1
Probate Code					
NO Probate Code provisions in new Code	11	58%	8	42%	
Surviving spouses waiver of rights	3	17%	15	83%	1
Guardian of person of minor	7	39%	11	61%	1
Guardian of estate of minor	7	39%	11	61%	1
Conservatorship of person of adult	3	17%	15	83%	1
Conservatorship of estate of adult	3	17%	15	83%	1
Management or disposition of community property	4	22%	14	78%	1
Other protective proceedings	3	17%	15	83%	1
Personal prop. of absent federal personnel	2	11%	16	89%	1
Temp. possession of family dwelling	3	17%	15	83%	1
Setting aside exempt property other	3	17%	15	83%	1
Probate Homestead	3	17%	15	83%	1
Family Allowance	3	17%	15	83%	1
Spouse or child unprovided for in will	3	17%	15	83%	1
Small estate set-aside	3	17%	15	83%	1
Welfare & Institutions Code					
Dependent children under Juvenile Court Law	12	80%	3	20%	4
Wards under Juvenile Court Law	12	80%	3	20%	4
Interstate Compact on Juveniles	12	80%	3	20%	4
District Attorney enforcement of child supp.	14	93%	1	7%	4

Family Relations Law Questionnaire Personal Information Summary Report

Printed on 03/20/90

Role you play in the legal system

Practicing Lawyer	0	0%
Judge	19	100%
Social Worker	0	0%
Court Commissioner	0	0%
Paralegal	0	0%
Court Investigator	0	0%
Other	0	0%
No Answer	0	0%

Years of Practice (judge or lawyer)

5 years or less	1	5%
6 to 10 years	1	5%
11 to 15 years	1	5%
16 to 20 years	4	21%
21 to 25 years	5	26%
More than 25 years	7	37%
No Answer	0	0%

Locality in which you practice

Southern California		
Los Angeles	5	26%
San Diego	2	11%
Riverside	0	0%
San Bernardino	0	0%
Orange County	4	21%
Long Beach	0	0%
Other City	1	5%
(X)	2	
Rural Area	1	5%
(X)	1	
Northern California		
Oakland	1	5%
San Francisco	0	0%
San Jose	1	5%
Sacramento	1	5%
Stockton	1	5%
Santa Cruz	0	0%
Other City	0	0%
Rural Area	2	11%
(X)	1	
(X)	1	
No Answer	0	0%

Size of law firm in which you practice

Sole Practitioner	0	0%
2-9 Attorney Firm	3	16%
10-29 Attorney Firm	0	0%
30 + Attorney Firm	1	5%

No Answer	15	79%
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Are you a certified legal specialist?

Yes	0	0%
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No	8	42%
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No Answer	11	58%
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If you are a judge, do you serve in a particular department?

Yes	16	84%
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No.	3	16%
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Family Relations Law Questionnaire Summary Report

Printed on 03/21/90

Questionnaires received (COURT COMM. ONLY):

13

Out of 4,246 questionnaires sent.

	Yes	Yes %	No	No %	Blank
Family Relations as part of existing Code?	1	8%	11	92%	1
Separate Family Relations Code?	9	69%	4	31%	0
FR Code if NO Family Relations Court?	10	100%	0	0%	3

Do NOT want either an Act

a separate Family Relations Code:

3 23%

Do NOT want a separate Code - no opinion on an Act:

0 0%

Do NOT want an Act - no opinion on separate Code:

0 0%

Total Opposed:

3 23%

DO want either an Act or a separate Family Relations Code:

10 77%

Strongly favor an Act as part of an existing Code:

1 10%

Favor an Act as part of an existing Code:

0 0%

Total:

1 10%

Strongly favor a SEPARATE Family Relations Code:

8 80%

Favor a SEPARATE Family Relations Code:

1 10%

Total:

9 90%

Favor BOTH an Act and a separate Code - don't care which:

0 0%

Have no opinion - left both questions blank:

0

Summary Report - Content of Family Relations Code (or Act)

Printed on 03/20/90

	Yes	Yes %	No	No %	Blank
Civil Code					
Medical treatment of minors	12	100%	0	0%	1
Minors contracts, enlistment in armed forces	12	100%	0	0%	1
Conveyances or contracts (unsound mind)	3	27%	8	73%	2
Wrongs not actionable	5	42%	7	58%	1
Libel or slander (abuse charges pending)	7	50%	7	50%	1
Acts forbidden by rights of personal relations	7	58%	5	42%	1
Emancipation of Minors Act	12	100%	0	0%	1
Parent and child	12	100%	0	0%	1
Adoption	12	100%	0	0%	1
Freedom from parental custody & control	12	100%	0	0%	1
Uniform Civil Liability for Support Act	12	100%	0	0%	1
Intstate Compact on Placement of Children	12	100%	0	0%	1
Priority for foster care & placement	12	100%	0	0%	1
Liability of parent & guardian for acts	10	83%	2	17%	1
Family Law Act	12	100%	0	0%	1
Uniform Parentage Act	12	100%	0	0%	1
Code of Civil Procedure					
Uniform Reciprocal Enforcement of Support	12	100%	0	0%	1
Family Conciliation Court Law	12	100%	0	0%	1
Evidence Code					
NO Evidence Code Provisions in Code	4	31%	9	69%	
Presumption of legitimacy	8	67%	4	33%	1
Leading questions of minor under 10	7	58%	5	42%	1
Blood test to determine paternity	8	67%	4	33%	1
Privileges	8	67%	4	33%	1
Hearsay exceptions to minors	8	67%	4	33%	1
Probate Code					
NO Probate Code provisions in new Code	8	62%	5	38%	
Surviving spouses waiver of rights	2	17%	10	83%	1
Guardian of person of minor	5	42%	7	58%	1
Guardian of estate of minor	4	33%	8	67%	1
Conservatorship of person of adult	2	17%	10	83%	1
Conservatorship of estate of adult	1	8%	11	92%	1
Management or disposition of community property	3	25%	9	75%	1
Other protective proceedings	1	8%	11	92%	1
Personal prop. of absent federal personnel	1	8%	11	92%	1
Temp. possession of family dwelling	4	33%	8	67%	1
Setting aside exempt property other	2	17%	10	83%	1
Probate Homestead	2	17%	10	83%	1
Family Allowance	2	17%	10	83%	1
Spouse or child unprovided for in will	2	17%	10	83%	1
Small estate set-aside	2	17%	10	83%	1
Welfare & Institutions Code					
Dependent children under Juvenile Court Law	7	58%	5	42%	1
Wards under Juvenile Court Law	7	58%	5	42%	1
Interstate Compact on Juveniles	7	58%	5	42%	1
District Attorney enforcement of child supp.	12	100%	0	0%	1

Family Relations Law Questionnaire Personal Information Summary Report
Printed on 03/20/90

Role you play in the legal system

Practicing Lawyer	0	0%
Judge	0	0%
Social Worker	0	0%
Court Commissioner	13	100%
Paralegal	0	0%
Court Investigator	0	0%
Other	0	0%
No Answer	0	0%

Years of Practice (judge or lawyer)

5 years or less	0	0%
6 to 10 years	0	0%
11 to 15 years	0	0%
16 to 20 years	7	54%
21 to 25 years	1	8%
More than 25 years	5	38%
No Answer	0	0%

Locality in which you practice

Southern California		
Los Angeles	10	77%
San Diego	0	0%
Riverside	0	0%
San Bernardino	0	0%
Orange County	1	8%
Long Beach	0	0%
Other City	2	15%
(X)	2	
Rural Area	0	0%

Size of law firm in which you practice

Sole Practitioner	1	8%
2-9 Attorney Firm	0	0%
10-29 Attorney Firm	0	0%
30 + Attorney Firm	0	0%
No Answer	12	92%

Are you a certified legal specialist?

Yes	2	15%
No	5	38%
No Answer	6	46%

If you are a judge, do you serve in a particular department?

Yes	10	77%
No	0	0%
No Answer	3	23%

Family Relations Law Questionnaire Summary Report

Printed on 03/21/90

Questionnaires received (CERT LEGAL SPEC'S): 159

Out of 4,246 questionnaires sent.

	Yes	Yes %	No	No %	Blank
Family Relations as part of existing Code?	59	42%	82	58%	18
Separate Family Relations Code?	92	60%	61	40%	6
FR Code if NO Family Relations Court?	116	87%	18	13%	25

Do NOT want either an Act a separate Family Relations Code:	30	19%
Do NOT want a separate Code - no opinion on an Act:	0	0%
Do NOT want an Act - no opinion on separate Code:	0	0%

Total Opposed:	30	19%
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DO want either an Act or a separate Family Relations Code:	126	81%
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Strongly favor an Act as part of an existing Code:	31	25%
Favor an Act as part of an existing Code:	3	2%

Total:	34	27%
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Strongly favor a SEPARATE Family Relations Code:	52	41%
Favor a SEPARATE Family Relations Code:	15	12%

Total:	67	53%
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Favor BOTH an Act and a separate Code - don't care which:	25	20%
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Have no opinion - left both questions blank:	3	
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Summary Report - Content of Family Relations Code (or Act)
 Printed on 03/20/90

	Yes	Yes %	No	No %	Blank
Civil Code					
Medical treatment of minors	117	79%	31	21%	11
Minors contracts, enlistment in armed forces	94	64%	53	36%	12
Conveyances or contracts (unsound mind)	50	35%	93	65%	16
Wrongs not actionable	89	61%	58	39%	12
Libel or slander (abuse charges pending)	52	36%	94	64%	13
Acts forbidden by rights of personal relations	80	58%	58	42%	21
Emancipation of Minors Act	141	92%	12	8%	6
Parent and child	151	97%	5	3%	3
Adoption	141	91%	14	9%	4
Freedom from parental custody & control	144	93%	11	7%	4
Uniform Civil Liability for Support Act	149	97%	5	3%	5
Intstate Compact on Placement of Children	142	92%	13	8%	4
Priority for foster care & placement	121	79%	32	21%	6
Liability of parent & guardian for acts	97	63%	56	37%	6
Family Law Act	153	97%	4	3%	2
Uniform Parentage Act	151	97%	5	3%	3
Code of Civil Procedure					
Uniform Reciprocal Enforcement of Support	147	95%	7	5%	5
Family Conciliation Court Law	149	97%	5	3%	5
Evidence Code					
NO Evidence Code Provisions in Code	79	50%	80	50%	
Presumption of legitimacy	71	46%	82	54%	6
Leading questions of minor under 10	42	28%	108	72%	9
Blood test to determine paternity	74	48%	80	52%	5
Privileges	47	31%	104	69%	8
Hearsay exceptions to minors	49	32%	102	68%	8
Probate Code					
NO Probate Code provisions in new Code	90	57%	69	43%	
Surviving spouses waiver of rights	28	20%	115	80%	16
Guardian of person of minor	53	36%	96	64%	10
Guardian of estate of minor	48	32%	101	68%	10
Conservatorship of person of adult	24	17%	121	83%	14
Conservatorship of estate of adult	23	16%	121	84%	15
Management or disposition of community property	51	33%	102	67%	6
Other protective proceedings	29	21%	112	79%	18
Personal prop. of absent federal personnel	19	13%	124	87%	16
Temp. possession of family dwelling	39	27%	108	73%	12
Setting aside exempt property other	28	19%	116	81%	15
Probate Homestead	24	17%	120	83%	15
Family Allowance	28	19%	117	81%	14
Spouse or child unprovided for in will	22	15%	122	85%	15
Small estate set-aside	17	12%	125	88%	17
Welfare & Institutions Code					
Dependent children under Juvenile Court Law	82	60%	55	40%	22
Wards under Juvenile Court Law	69	51%	66	49%	24
Interstate Compact on Juveniles	75	56%	58	44%	26
District Attorney enforcement of child supp.	117	83%	24	17%	18

Family Relations Law Questionnaire Personal Information Summary Report

Printed on 03/20/90

Role you play in the legal system

Practicing Lawyer	156	98%
Judge	0	0%
Social Worker	0	0%
Court Commissioner	2	1%
Paralegal	0	0%
Court Investigator	0	0%
Other	1	1%
No Answer	0	0%

Years of Practice (judge or lawyer)

5 years or less	0	0%
6 to 10 years	10	6%
11 to 15 years	44	28%
16 to 20 years	44	28%
21 to 25 years	25	16%
More than 25 years	36	23%
No Answer	0	0%

Locality in which you practice

Southern California		
Los Angeles	33	21%
San Diego	14	9%
Riverside	3	2%
San Bernardino	5	3%
Orange County	12	8%
Long Beach	2	1%
Other City	9	6%
Rural Area	3	2%
Northern California		
Oakland	2	1%
San Francisco	14	9%
San Jose	15	9%
Sacramento	6	4%
Stockton	0	0%
Santa Cruz	1	1%
Other City	27	17%
Rural Area	12	8%
No Answer	1	1%

Size of law firm in which you practice

Sole Practitioner	75	47%
2-9 Attorney Firm	71	45%
10-29 Attorney Firm	6	4%
30 + Attorney Firm	5	3%
No Answer	2	1%

Are you a certified legal specialist?

Yes	159	100%
No	0	0%
No Answer	0	0%

If you are a judge, do you serve in a particular department?

Yes	4	3%
No	0	0%
Not a Judge	155	97%

ADDITIONAL STATUTES OR SUBJECTS THAT SHOULD BE COVERED
IN NEW CODE OR ACT

Questionnaire: "List any other statutes or subjects that you believe should be included in a new Family Relations Code (or Act)."

11. All statutes that relate in any way to family law matters, otherwise, leave them where they are at.
16. Domestic violence.
17. 1. Community property, husband and wife, etc. could be unified (might be appropriate in Prob. Code.)
2. Child/Parent is totally different subject.
38. Authority to order drug and substance abuse testing and counseling of parents.
Ability to maintain confidentiality of court file in domestic action absent subpoena duces tecum.
Expand authority of Family Court Commissioners without waiver of parties.
39. Parental kidnapping,
State Court Family Law Rules.
40. Unsealing adoption records by adult.
53. Service of process should be liberalized.
57. Domestic Violence Prevention Act.
60. All rules pertaining to Family Law, including forms, should be in the Act.
71. Regulation of:
Non marital relationships
Pre and post nuptial agreements
Cohabitation agreements
80. How to deal with "New spouse income" when setting/modifying support.
85. Uniform Premarital Agreement Act
Laws affecting Non marital cohabitants (i.e. Uniform cohabitation Agreement Act)
Same sex cohabitation protections or homosexual marriages statutes.
94. Health and Safety Code Provisions relating to medical treatment of minors, consent of parents to minor's abortion.

95. Statutory provision for parental rights and responsibilities of each party to a surrogate parenting arrangement.
Coordination of Jurisdictions of Family Court, Juvenile Court dependency proceedings, and criminal prosecutions for child abuse/neglect, domestic violence, and non-support.
98. All of the Family Law Act.
112. Penal Code Sections.
115. If evidence is included, where do you stop? The mediator's confidentiality privilege, husband and wife privileges, marriage counselor privileges.
125. There should be no such code.
There should be no attempt to unify these very different areas of law which have very different issues and problems.
Marital dissolutions should not be heard in the same court as dependency and juvenile.
156. Foster Family and W and I Sections pertaining thereto.
159. Paternity Related Statutes.
167. Relating to insurance coverage (medical) for spouses and children.
172. Payment for vocational or college education should be mandated according to the higher earning parent's ability to pay.
Also, provisions for payment for vocational retraining for homemakers who have no marketable skills.
175. Domestic Violence Prevention Act.
176. I believe we should put some teeth in the compulsory education statutes. Ed. Code Section 48200 - and the School Attendance Review Based proceedings.
I also think we need more authority under child abuse laws to require family counseling where a child is clearly affected by the dysfunctional family (emotional versus physical abuse) and where the family refuse to permit the assistance required especially as to elementary school children.
192. The present system is burdensome and slow and inefficient.
We must rethink Family Law to provide remedies in a non-austere no-combative arena.
I believe the parties should go to Family Counseling the hour before their initial hearing; that there be continuing counseling available.
Also, I believe we should have strong sanctions for vindictive empty accusations of sexual abuse.
198. Domestic Violence Prevention Act.
Freedom from Parental Control
Emancipation of minors

213. Domestic Violence Act
218. Direct calendaring of family relations matters may be beneficial to curb the delay, abuse of discovery, abuse of the after judgment modification proceedings, etc. Put the Court back in control of these matters!
222. The "How To Do It" Statutes:
CCP 546
CCP 527.6, 527
CCP 546
CCP 545
CRC 1225(a)
CCP 529
CCP 1005
CCP 550
CCP 1003, 1005, etc.
225. CRC provisions. Rules should be integrated with statutes.
234. Mandatory mediation--whether mediator's opinions or recommendations may (or must) be considered by the court.
- Education of parties on the meaning of "joint" custody--both "joint legal" and "joint physical". Parenting classes.
236. Program similar to "fast track" involving judicial management of family law cases at early stages and thereafter.
237. All other forms of parent or guardian liability for acts of minors, e.g. Educ. Code §, Vehicle §.
- Domestic Violence Prevention Act, CCP §§ 540-553.
240. I do not believe we need this Code or Act.
- I do not want a separate family relations court. Nor do I want divorces with juvenile law in the same court.
247. Please check the contents of the book West has just published. A flier is attached. (Note: The flier is a thick one attached to the questionnaire.)
253. Atty. fees under RURESA
256. CCP §§ 527, 527.6, 540-549, 1209.5, 1275-1279.5
261. Appropriate statutes of limitations regarding debts to third parties, such as relatives of the parties to a dissolution of marriage, for example parents.
- Appropriate bankruptcy rules that apply to dissolution litigants also involved in a bankruptcy.

267. Various probate sections (above) if a fam. rel. court.
272. Sections on enforcement of orders and judgments.
- Sanctions for frivolous/delaying tactics.
- Duty to support parents/adult children and procedure.
- Equitable division of hidden, overlooked marital assets after judgment.
- Exemptions for bankruptcy--single or joint debtors.
277. Domestic Violence Prevention Act
- Other provisions relating to domestic violence
280. (a) Adoptions
(b) Premarital Agreements
(c) A detailed statute of limitations dealing with "delayed discovery" of abuse as a child by an adult who sues a parent in civil court.
284. This question confirms my opposition to extensive redrafting of existing law. I decline to answer.
- California experience with "consolidation" of law is poor. Examples of confusion created are (1) the evidence code and (2) the revised constitution. It took years for the practitioner/judicial officer to determine whether the extensive charges were to be made effective or not.
285. CCP 540 et seq., Domestic Violence Prevention Act.
293. 1. Parents' ability to move for finding or order that their child(ren) is emancipated.
295. Atty fee awards - modifiable where issue was custody and party who was granted custody and an attorney fee award later surrenders children to losing party.
303. The judges who handle child custody and dependency matters and the attorneys should have certification in Child Development and Early Childhood Education. The revision commission should include people with C.D. background as well. For example, children should be interviewed once by a competent expert Not 30 times by people who have no idea how to approach a child. For example, leading questions should be specifically excluded. (Keg MacFarland should know better.) For example, an advocate should accompany the child throughout the proceeding. For example, judges should not interview children in chambers when that judge is willing to take the time and trouble to learn the full family background, and learn how to interview a child.

306. Procedures for immediate Court Appointed and Court Supervised examination/investigation of child and/or parents, upon allegation of physical/sexual abuse through Court or any governmental agency.
307. Marvin proceedings
Special venue rules (e.g. CCP 397.5)
Summary judgment (CCP 437c)
313. Tax and Lottery winning intercept for support.
All CPP Enforcement of Judgments Law that is unique to support obligations.
314. 1. Welf. and Inst. Code §§11453 - AFDC
Standards on which Agnos Minimum Child Support Standards are based.
2. Various Government Code Sections providing for amount of fees in dissolution and family violence actions.
3. Venue - Dissolution CCP§ 395, 396(c), 397(5)
4. Evid. Code §663 - ceremonial marriage presumed to be valid.
5. Guardians Ad Litem - CCP§§372, 373, 373.5
6. Injury to Minor Child - Rts of Parents CCP§376.
318. I do not believe that any "criminal" statutes regarding juveniles should be included in a new Family Relations Code (or Act).
337. UCCJA (Uniform Child Custody Jurisdiction Act (CC 5100 et seq.)) which is perhaps a part of the Family Law Act, but I thought it came just after the FLA.
340. Child and Elder Protective Services
A.F.D.C.
341. Contempt statutes (civil)
347. Anything to do with the family-children/property/support/enforcement of marital action order, they should be within one unified, internally consistent Act.
364. Powers of parent, or guardian or court to obtain mental health treatment for minors (W & I).