

Study J-1300

October 7, 1999

Memorandum 99-72**Trial Court Unification: Report on Status of Studies**

The Law Revision Commission's report on trial court unification identified a number of matters for future study. The Commission was given primary responsibility for some of these studies, which it is to conduct in consultation with the Judicial Council. For the Commission's information, and as part of the Commission's consultation with the Judicial Council, we have prepared the attached update on the status of the studies for which the Commission has primary responsibility.

When the Commission has largely completed its work on these studies, we will update the status report and convert it into the Commission's report to the Legislature on this project.

Respectfully submitted,

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TRIAL COURT UNIFICATION: ISSUES IDENTIFIED FOR FUTURE STUDY

In its recommendation on revision of the codes to implement trial court unification, the Commission identified a number of issues for future study.¹ The Legislature directed the Commission to undertake primary responsibility for some of these studies, in consultation with the Judicial Council.² The following is an update on the status of those studies.

Obsolete statutes relating to expired programs

The Commission is responsible for studying obsolete statutes relating to expired pilot projects or other expired programs. At the Commission's request, the Institute for Legislative Practice at McGeorge Law School searched the codes for statutes relating to expired pilot projects. The Institute for Legislative Practice is contacting the agencies involved in these pilot projects to determine whether it is appropriate to repeal these statutes. The Institute for Legislative Practice is also searching the codes for statutes with obsolete reporting requirements, for incorporation into eventual clean-up legislation.

Appointment of receiver

The Commission has primary responsibility for studying whether to conform the statutory procedures on circumstances for appointment of a receiver.³ The Commission has approved a tentative recommendation on this topic for circulation for comment.

Good faith improver claims

The Commission is studying the procedure for good faith improver claims, particularly the jurisdictional classification of a good faith improver cross-complaint.⁴ The Commission has approved a tentative recommendation on this topic, which is being circulated for comment.

Stay of mechanic's lien foreclosure action pending arbitration

The Commission is studying the procedure for stay of a mechanic's lien foreclosure action pending arbitration.⁵ The Commission has approved a tentative recommendation on this topic for circulation for comment.

1. *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 82-86 (1998).

2. Gov't Code § 70219; *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 85-86 (1998).

3. Compare Code Civ. Proc. § 86(a)(8) (appointment of receiver in municipal court) with Code Civ. Proc. § 564 (appointment of receiver in superior court).

4. Code Civ. Proc. § 871.3.

5. Code Civ. Proc. § 1281.5.

Counsel for defendant in criminal case

Another topic assigned to the Commission was clarification of the provisions on obtaining counsel for a defendant in a criminal case. A number of these provisions appear to conflict with a defendant's constitutional right of self-representation,⁶ which applies in both capital and noncapital cases.⁷ The Commission decided not to propose legislation in this area, because such a proposal would go beyond the scope of the technical clean-up originally envisioned when the Commission proposed this study.

Court reporter in unified superior court

The Commission has primary responsibility for studying the role of a court reporter in a unified superior court. The Commission has approved a tentative recommendation on this topic for circulation for comment.

Appealability of order of recusal in criminal case

The Commission studied and proposed legislation on the appealability of an order of recusal in a criminal case. The proposed legislation has been enacted.⁸

Publication of legal notice in county with unified superior court

The Commission is to study issues relating to publication of legal notice in a county with a unified superior court.⁹ The Commission is deferring work on this study until interested parties gain experience with legal publication in a unified superior court.

Numbering conflict in Government Code

The Commission was to study a numbering conflict in the Government Code.¹⁰ Legislation on this topic is unnecessary, because the conflict was eliminated in Legislative Counsel's 1998 bill to maintain the codes.¹¹

6. Penal Code §§ 686, 686.1, 859, 859a, 987.

7. See *Faretta v. California*, 422 U.S. 806 (1975) (noncapital case); *People v. Kirkpatrick*, 7 Cal. 4th 988, 874 P.2d 248, 30 Cal. Rptr. 2d 818 (1994) (capital case); *People v. Superior Court (George)*, 24 Cal. App. 4th 350, 29 Cal. Rptr. 2d 305 (1994) (capital case).

8. 1999 Cal. Stat. ch. 344, § 25 (conforming Penal Code Section 1238 to Penal Code Section 1466(a)(1)(A)); *Report of the California Law Revision Commission on Chapter 344 of the Statutes of 1999 (Senate Bill 210)*, 29 Cal. L. Revision Comm'n Reports __, __ (1999).

9. See Gov't Code § 71042.5 (preservation of judicial districts for purpose of publication).

10. In 1997, the Legislature enacted two Chapters 2.1 (commencing with Section 68650) of Title 8 of the Government Code, one entitled "Trial Court Personnel" and the other entitled "California Habeas Resource Center."

11. 1998 Cal. Stat. ch. 485, §§ 94-100.5.

Default in unlawful detainer case

The Commission studied and proposed legislation on default in an unlawful detainer case. The proposed legislation has been enacted.¹²

Affidavit pursuant to Fish and Game Code Section 2357

The Commission is studying Fish and Game Code Section 2357, which concerns carrying of trout into an area where the season is closed. The Commission has directed the staff to prepare and circulate a tentative recommendation proposing repeal of this statute.

12. 1999 Cal. Stat. ch. 344, § 19 (correcting cross-references in Code of Civil Procedure Section 1167.3); *Report of the California Law Revision Commission on Chapter 344 of the Statutes of 1999 (Senate Bill 210)*, 29 Cal. L. Revision Comm'n Reports __, __ (1999).