

Memorandum 2001-98

Statutes Made Obsolete by Trial Court Restructuring: Overview

The Commission made substantial progress at the November 15-16, 2001, meeting reviewing the staff draft of a tentative recommendation on statutes made obsolete by trial court restructuring. There remain for Commission review issues relating to court clerks (Memorandum 2001-97) and miscellaneous other matters (Second, Third, and Fourth Supplements to Memorandum 2001-88) before a tentative recommendation can be approved to circulate for comment. (The Commission's chairperson, Joyce Cook, has also provided the staff with additional suggested revisions to the draft attached to the First Supplement to Memorandum 2001-88, which the staff will implement in the tentative recommendation. See the Exhibit to this Memorandum.)

As a result of Commission decisions made at the November 15-16 meeting, further staff work is required to review, harmonize, and standardize treatment of parallel provisions in the draft tentative recommendation. In addition, time will be required to convene a working group of interested persons and organizations on official reporter compensation issues.

Given the magnitude of this project, and the shortness of time until the beginning of the 2002 legislative session, the staff suggests the following procedure.

(1) Assuming the Commission completes review of the staff-produced materials at its next meeting and is able to approve a tentative recommendation to circulate for comment, the staff will implement the Commission decisions and promulgate the tentative recommendation. We would allow ample opportunity for review of this 600-plus page document, with a comment deadline of February 15, 2002. (Note: Most of the interested persons and organizations, including courts, counties, labor unions, Administrative Office of the Courts, and others, have already seen previous staff drafts of the same or similar material.)

(2) We will have Legislative Counsel prepare a bill draft in the form of the tentative recommendation that is circulated for comment. (Note: We have previously requested a Legislative Counsel bill draft based on the staff draft

tentative recommendation. That draft has been prepared and it will be a relatively straightforward matter to incorporate revisions to reflect the actual text of the Commission's tentative recommendation).

(3) We will seek an author (either individual or committee) for the bill and have it introduced immediately when the Legislature reconvenes in January. (It will actually take the form of a bill draft and a proposed constitutional amendment.) This will alert persons who are not already aware of this project to its existence and the imminence of legislative action, and should help to generate comments on the proposals. It will also provide a convenient hard copy text of the proposals for review.

(4) Meanwhile, we would facilitate the working group discussions concerning official reporter compensation. The tentative recommendation and bill draft would not purport to resolve the issue. We would schedule the outcome of the working group discussions for Commission review at its January 17-18, 2002, meeting. If it looks like progress is being made, Commission review could be deferred to the March 14-15 meeting. Depending on the outcome of those discussions, the Commission could take any of a number of approaches to the issue, such as implementation of any consensus that develops, leaving existing law unchanged until the stakeholders resolve policy differences, or making specific Commission recommendations despite lack of a consensus. The staff would develop various options for the Commission at the January meeting.

(5) We would review comments on the bill and tentative recommendation at the Commission's March 14-15 meeting. Any changes made by the Commission would be incorporated in the Commission's final recommendation on the matter, and amended into the bill. The bill would then be set for its first policy committee hearing. (The prospective deadline for policy committees to hear and report fiscal bills is April 26).

(6) The bill would remove the January 1, 2002, deadline for the Commission's recommendations on statutes made obsolete by trial court restructuring. The staff would schedule further Commission review of unresolved matters during 2002 for possible legislative action in 2003.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

Exhibit

**FURTHER SUGGESTIONS OF CHAIRPERSON JOYCE COOK
REGARDING THE FIRST SUPPLEMENT TO MEMORANDUM 2001-88**

At the meeting on November 15-16, 2001, Chairperson Joyce Cook made a number of suggestions regarding the draft attached to the First Supplement to Memorandum 2001-88. These matters were discussed and resolved by the Commission. Since then, Chairperson Cook has made some minor technical comments regarding the draft, as well as the following additional suggestions:

References to “the superior court” or similar terminology

Throughout the drafts attached to Memorandum 2001-88 and its First Supplement, the staff should check whether references to “the superior court” could be changed to “the court” or eliminated altogether. See, e.g., p. 34, line 40, of the First Supplement (“the court” could be substituted for “the superior court” without change in meaning); p. 39, lines 32-33, of the First Supplement (“arraignment” could be substituted for “arraignment in superior court”); p. 40, line 15, of the First Supplement (same).

Lab. Code § 98.1 (amended). Order, decision or award

The staff should examine whether it is necessary to refer to “the appropriate superior court” (as opposed to “the superior court”) in Labor Code Section 98.1(a).

Penal Code § 1269b. Bail

The proposed amendment of Penal Code Section 1269b(a) refers to “the clerk of the superior court of the county in which the offense was alleged to have been committed” and “the clerk of the superior court in which the case against the defendant is pending.” The staff should check whether these are necessarily the same, and revise the amendment accordingly.

Pub. Res. Code § 14591.5. Enforcement of judgments

Public Resources Code Section 14591.5 should be amended along the following lines:

14591.5. After the time for judicial review under Section 11523 of the Government Code has expired, the department may apply to the clerk of the small claims court, ~~municipal court~~, or clerk of the superior court, as appropriate depending on the jurisdictional amount and any other remedy sought, in the county where the penalties, restitution, or other remedy was

imposed by the department, for a judgment to collect any unpaid civil penalties or restitution or to enforce any other remedy provided by this division. The application, which shall include a certified copy of the final agency order or decision, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall have the same force and effect as, and shall be subject to all the provisions of law relating to, a similar judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. The court shall make enforcement of the judgment a priority.

Comment. Section 14591.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. The small claims court is a division of the superior court. Code Civ. Proc. § 116.210 (small claims division).

Veh. Code § 14607.6. Vehicle driven by unlicensed driver

The staff should assess whether further action should be taken to eliminate confusion regarding which version of Vehicle Code Section 14607.6 is operative.

In the proposed amendment, subdivision (e)(4) should refer to “the appropriate juvenile or superior court,” not “the appropriate juvenile court or other division of the superior court.” A similar revision should be made in the proposed amendment of Vehicle Code Section 42008.5.

Welf. & Inst. Code § 603.5. Minor charged with Vehicle Code infraction or violation of local ordinance relating to motor vehicle

The staff should check whether parking offenses by juveniles are to be heard in superior court or in an administrative tribunal, and revise the proposed amendment of Welfare and Institutions Code Section 603.5 if necessary.

Welf. & Inst. Code § 742.16. Clean up, repair, or restitution

The staff should consider substituting “civil proceeding” for “ordinary civil proceeding” in Welfare and Institutions Code Section 742.16(n).