

Memorandum 2002-34

Statutes Made Obsolete by Trial Court Restructuring: “Jurisdiction” References

The Commission in May commenced work on the second phase of the project to repeal statutes made obsolete by trial court unification, state funding of trial court operations, and reforms relating to trial court employment. The staff presented an overview of remaining cleanup work and suggested procedures for completion of the project. The staff noted that a necessary task would involve systematically searching the codes for provisions that are indirectly obsolete as a result of trial court restructuring.

Senate Bill 1316 (Senate Judiciary Committee) is currently pending in the Legislature. It is the Commission’s initial cleanup bill and would delete most of the express statutory references to municipal courts throughout the codes (some municipal court references would be retained where they have continuing utility, as in the retirement context). However, indirect references to the municipal courts may still exist and might warrant adjustment to reflect unification. One such example is references to “jurisdiction” in statutes that were enacted before unification and have not otherwise been amended to reflect trial court restructuring. This memorandum seeks Commission guidance in dealing with the large number of “jurisdiction” provisions that appear throughout the codes.

EXAMPLES OF “JURISDICTION” PROVISIONS

A Westlaw search of all statutes containing the terms “jurisdiction” and “court” in the same sentence resulted in over 2,000 “hits.” A few examples will help illustrate the types of jurisdictional references that predominate:

Bus. & Prof. Code § 1271.1. Cessation of cytology laboratory operations

1271.1. (a) Clinical laboratories which are licensed pursuant to this chapter and provide cytology services shall, if the licensee ceases operation, preserve records, reports, cytology slides, and cell blocks as prescribed in subdivision (g) of Section 1271 and Section 1274.

(b) Any person injured as a result of the licensee's abandonment of records may bring an action in any *court of competent jurisdiction* for the amount of any damages suffered as a result. In the event the licensee was a corporation or partnership which has been dissolved, the person injured may bring an action against that corporation's or partnership's principal officers of record at the time of the dissolution.

(c) For purposes of this section, the following definitions shall apply:

(1) "Abandonment of records" means violating subdivision (a) and thereby leaving patients and physicians and surgeons without access to information to which they are entitled pursuant to this chapter.

(2) "Principal officers" means:

(A) In the case of a partnership other than a limited partnership, any partner.

(B) In the case of a limited partnership, any general partner, as defined in subdivision (i) of Section 15611 of the Corporations Code.

(C) In the case of a corporation, the chairperson of the board, the chief executive officer, and the president of the corporation.

Bus. & Prof. Code § 1619. Examination papers

1619. The examination papers of any applicant shall be kept for the period of one year and may then be destroyed, but they shall be open to inspection only by members of the board, by the applicant or by someone appointed by the latter to inspect them, by a *court of competent jurisdiction* in a proceeding where the question of the contents of the papers is properly involved, or by the director in accordance with Section 110 or 153.

Civ. Code § 52.2. Court of competent jurisdiction

52.2. An action pursuant to Section 52 or 54.3 may be brought in any *court of competent jurisdiction*. A "*court of competent jurisdiction*" shall include small claims court if the amount of the damages sought in the action does not exceed five thousand dollars (\$5,000).

Elec. Code § 16441. Contest of nomination for office including political subdivision of more than one county

16441. If the nomination contested is for an office including a political subdivision of more than one county, *the superior court of any county within the political subdivision has jurisdiction, and the contestant may file in any county within the political subdivision.* There shall be no change of venue therefrom to any other county within the political subdivision.

Food & Agric. Code § 31109. Taking up, impounding, and detaining of licensed or identified dog

31109. Any dog which is found straying on any farm where livestock are kept, which has attached to its collar the identification tag or dog license tag prescribed by Section 30951, may be taken up, impounded, and detained in the same manner as described in this division. The person taking up the dog may recover from the owner, *in any court having jurisdiction*, the fees fixed by the board of supervisors for taking up and keeping unlicensed and unidentified dogs, together with costs.

Health & Safety Code § 101848.2. Disclosure exemption for trade secrets, payment rates, or contract negotiations

101848.2. The records of the hospital authority, whether paper records, records maintained in the management information system, or records in any other form that relate to trade secrets or to payment rates or the determination thereof, or which relate to contract negotiations with providers of health care, shall not be subject to disclosure pursuant to the California Public Records Act (Chapter 5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted shall be subject to this same exemption. The information, if compelled pursuant to an order of a *court of competent jurisdiction* or administrative body in a manner permitted by law, shall be limited to *in camera* review, which, at the discretion of the court, may include the parties to the proceeding, and shall not be made a part of the court file unless sealed.

ALTERNATIVE APPROACHES

The staff sees several options for dealing with this large number of jurisdictional references.

Comprehensive Review and Treatment

The staff could review each of the over 2,000 references and revise or delete the references to “jurisdiction,” as appears appropriate. For example, Business and Professions Code Section 1271.1(b) could be revised to eliminate the reference to “court of competent jurisdiction” without substituting any other language, inasmuch as the superior court is the only remaining trial court:

Any person injured as a result of the licensee's abandonment of records may bring an action ~~in any court of competent jurisdiction~~ for the amount of any damages suffered as a result.

Alternatively, the section could be revised to substitute a reference to the superior court:

Any person injured as a result of the licensee's abandonment of records may bring an action ~~in any court of competent jurisdiction~~ superior court for the amount of any damages suffered as a result.

In some instances it might be appropriate to substitute a reference to jurisdictional classification instead (i.e., limited civil case vs. unlimited civil case). For example:

Any person injured as a result of the licensee's abandonment of records may bring an action ~~in any court of competent jurisdiction~~ the proper jurisdictional classification for the amount of any damages suffered as a result.

Comprehensive Review and Limited Treatment

The staff could review each of the jurisdiction references, but leave references to "a court of competent jurisdiction" (or comparable language) unrevised. As a result of trial court unification, these references may be surplus. On the other hand, the continued presence of these references in the codes is not causing any harm and, in some instances, might still be meaningful (e.g., the reference could possibly apply to several different courts, such as the superior court, a court of appeal, or even a court in another state).

The staff would review the references merely to discover if there are other types of "jurisdiction" references that need to be changed. For example, Elections Code Section 16441 might require revision to specify that the type of action provided for in that section is an unlimited civil case.

No Review and Limited Treatment

Options (1) and (2) would require a great deal of staff time. Another option is to skip any sort of systematic review of jurisdictional references. If the Commission is revising a provision for other reasons or if specific concerns about a provision have been brought to our attention, then we could eliminate or revise references to "jurisdiction," as warranted.

No Review and Very Limited Treatment

The final option is not to do any kind of systematic review and to leave references to “court of competent jurisdiction” (or comparable language) alone, even if they appear in a provision that is being revised in other respects. A jurisdictional reference would be addressed only if the staff is made aware of specific problems relating to it.

CONCLUSION

Of the various options discussed above, the staff favors either the third or fourth option — skip the review of some 2,000 statutes and make only limited revisions. This would allow the staff to concentrate our resources on more important matters, such as reviewing all superior court references in the codes. Such a review would potentially uncover statutes where a jurisdictional classification provision is necessary as a result of unification (see, e.g., Elec. Code § 16441). Either of these options would also avoid the possibility of eliminating a “jurisdiction” reference which remains meaningful.

Respectfully submitted,

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