

First Supplement to Memorandum 2006-29

2006 Legislative Program (Additional Information)

This memorandum provides additional information concerning measures referred to in Memorandum 2006-29 that are also of interest to the Law Revision Commission.

AB 2034 (Spitzer) – CLRC Study of Donative Transfer Restrictions

This measure has passed the Senate and is pending in the Assembly for concurrence in Senate amendments.

ACR 73 (McCarthy) – CLRC Study of Firearms Statutes

This measure has passed the Assembly and is pending in the Senate Appropriations Committee.

SB 1311 (Soto) – CLRC Study of Settlement, Waiver, or Release of Liability

SB 1311 (Soto) has been amended to authorize and request the Commission to study and report to the Legislature on possible statutory protections that can be enacted to prevent a settlement, waiver, or liability release that is not knowingly and intelligently made by an unrepresented tort victim because of miscommunication or misinterpretation where the negotiations were conducted in whole or in part in a language in which the victim was not proficient.

The bill identifies various groups the Commission should consult with in making the study. The bill would not impose a deadline for the Commission's report.

The bill is pending in the Assembly Appropriations Committee. It would have to return to the Senate for concurrence if it passes the Assembly.

A copy of the bill is attached to this memorandum.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

AMENDED IN ASSEMBLY AUGUST 8, 2006

AMENDED IN SENATE MAY 16, 2006

AMENDED IN SENATE MAY 4, 2006

AMENDED IN SENATE MAY 1, 2006

AMENDED IN SENATE MARCH 21, 2006

SENATE BILL

No. 1311

Introduced by Senator Soto

February 16, 2006

An act relating to liability waivers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1311, as amended, Soto. Liability waivers.

Existing law provides that everyone is responsible for the result of willful acts and for injury to another occasioned by his or her want of ordinary care or skill in the management of his or her person or property, as specified.

~~This bill would declare the intent of the Legislature to require the President of the State Bar of California to appoint a task force~~ *authorize and request the California Law Revision Commission* to study and report to the Legislature possible statutory protections that can be enacted to prevent a settlement, waiver, or liability release that is not knowingly and intelligently made by an unrepresented tort victim because of miscommunication or misinterpretation of the terms of the settlement, waiver, or liability release where the negotiations were conducted in whole or in part in a language in which the victim was not proficient.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that if
2 negotiations are conducted in whole or in part to settle or
3 otherwise obtain a waiver or liability release of a potential tort
4 claim from an unrepresented tort victim in a language in which
5 the victim is not proficient, an unintended settlement, waiver, or
6 liability release can result from miscommunication or
7 misinterpretation of the terms of the settlement, waiver, or
8 liability release. ~~Therefore, it is the intent of the Legislature to~~
9 ~~require the President of the State Bar of California to appoint a~~
10 ~~task force liability release.~~

11 (b) *The Legislature authorizes and requests the California*
12 *Law Revision Commission to study and report to the Legislature*
13 *possible statutory protections that can be enacted to prevent a*
14 *settlement, waiver, or liability release that is not knowingly and*
15 *intelligently made by an unrepresented tort victim because of*
16 *miscommunication or misinterpretation of the terms of the*
17 *settlement, waiver, or liability release where the negotiations*
18 *were conducted in whole or in part in a language in which the*
19 *victim was not proficient.*

20 ~~(b) Appointments to the task force shall include~~ *If it elects to*
21 *conduct the study and report, the commission shall request input*
22 *from experts including, but not limited to, representatives from*
23 *the State Bar Office of Legal Services, Access and Fairness*
24 *Programs, the Commission on Access to Justice, the State*
25 *Chamber of Commerce, a property and casualty insurer in*
26 *California, the Mexican American Legal Defense and*
27 ~~*Educational Fund, the Asian Law Caucus, and the Chairs of the*~~
28 ~~*Senate and Assembly Committees on Judiciary or their*~~
29 ~~*designees.*~~ *Educational Fund, a civil rights organization with*
30 *experience working on Asian American language access issues,*
31 *and at least one legal services organization.*