

Admin.

October 22, 2020

## Memorandum 2020-57

**Minutes of Meeting on October 15, 2020 (Draft)**

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The California Law Revision Commission held a meeting on October 15, 2020, by teleconference.<sup>1</sup> A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

The Bagley-Keene Open Meeting Act provides that attendees cannot be required to identify themselves.<sup>2</sup> As a means of observing that rule, the Commission is only listing attendees who have affirmatively consented to being identified in the Minutes, as part of the registration process required for those who wish to attend the meeting.

Respectfully submitted,

Brian Hebert  
Executive Director

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. Gov't Code § 11124.



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**DRAFT MINUTES OF MEETING**  
**CALIFORNIA LAW REVISION COMMISSION**  
October 15, 2020

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A meeting of the California Law Revision Commission was held on October 15, 2020. Consistent with Executive Orders N-25-20 and N-29-20, the meeting was held as an online video webinar.

Only those members of the public who expressly consented to inclusion in the Minutes are listed as attendees.

**Commission:**

*Present:* Crystal Miller-O'Brien, Chairperson  
Richard Simpson, Vice-Chairperson  
David A. Carrillo  
Ana Cubas  
Victor King  
Jane McAllister  
Richard Rubin

*Absent:* Assembly Member Ed Chau  
Senator Richard D. Roth

**Staff:** Brian Hebert, Executive Director  
Barbara Gaal, Chief Deputy Director  
Kristin Burford, Staff Counsel

**Other Persons:**

Michael Amster  
Linda Brown  
Assistant Head Deputy District Attorney Mark J. Burnley, Los Angeles  
Richard Calhoun, Coalition of Elder and Dependent Adult Rights (CEDAR)  
Alex Graves, Association of Independent California Colleges and Universities (AICCU)  
Melissa Rowlett

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APPROVAL OF ACTIONS TAKEN

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Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

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MINUTES

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The Commission considered Memorandum 2020-51 and its First Supplement, presenting draft Minutes for the September 10, 2020, meeting.

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The Commission approved the Minutes, with the revision set out in the First Supplement.

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ADMINISTRATIVE MATTERS

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**Report of Executive Director**

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The Executive Director reported that he would reach out to the new Legislative Counsel to discuss the Commission, once that person has been appointed.

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**Commissioner Suggestions**

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No suggestions were made.

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**New Topics and Priorities**

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The Commission considered Memorandum 2020-52 and its First Supplement, which discuss the Commission's current workload, the new topic suggestions

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1 received in 2020, proposed work priorities for 2021, and proposed changes to the  
2 Commission’s resolution of authority.

3 The Commission approved the following work priorities for 2021, as  
4 recommended by the staff:

- 5 • Manage the 2021 legislative program as described on pages 40-41  
6 of Memorandum 2020-52.
- 7 • Continue to work on any of the candidates for the 2021 legislative  
8 program that are not completed in time for introduction in 2021.
- 9 • Continue the study on recodification of toxic substance statutes.
- 10 • Continue the study of state and local agency access to customer  
11 information from communications service providers.
- 12 • Continue the study on fish and game law.
- 13 • Continue the study on trial court restructuring.
- 14 • Continue the study on use of the Uniform TOD Security  
15 Registration Act to transfer a share of ownership in a stock  
16 cooperative.
- 17 • Possibly begin a modest new study, on a low priority basis, such  
18 as the study on transfer of use-restricted property at death or the  
19 study on presumptively disqualified fiduciaries.
- 20 • Study one or more technical or minor substantive issues on a low-  
21 priority basis, if time permits (probably as a student project).

22 The Commission also asked the staff to prepare two memoranda for  
23 consideration at a future meeting:

- 24 (1) A memorandum that discusses the Commission’s existing scope of  
25 authority, the process of obtaining additional authority, and  
26 related matters.
- 27 (2) A memorandum that further explores the possibility of studying  
28 the State Authorization Reciprocity Agreement (“SARA”) or other  
29 means of promoting reciprocity between California and other  
30 states with regard to online learning at institutions of higher  
31 education. The memorandum should include proposed language  
32 on this point for possible inclusion in next year’s resolution on the  
33 Commission’s Calendar of Topics.

#### 34 2020 LEGISLATIVE PROGRAM

35 The Commission considered Memorandum 2020-53, which discusses the  
36 Commission’s 2020 Legislative Program.

37 The staff noted that the Executive Director had made an error in drafting  
38 Assembly Concurrent Resolution 173 (Gallagher), which led to the unintended

1 deletion of the Commission’s authority to prepare a nonsubstantive  
2 recodification of the California Public Records Act. As the Commission has  
3 completed its work under that authority, with the exception of minor technical  
4 adjustments that could be made pursuant to Government Code Section 8298, the  
5 Commission decided against taking any step to reintroduce the deleted  
6 authority.

7 STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER INFORMATION  
8 FROM COMMUNICATION SERVICE PROVIDERS

9 The Commission considered Memorandum 2020-54 and its First and Second  
10 Supplements, and Memorandum 2020-55, which discuss the following aspects of  
11 government access to electronic communications, respectively:

- 12 (1) Minimizing the interception of privileged communications.
- 13 (2) Use of an administrative subpoena.

14 The Commission made the decisions stated below.

15 **Minimizing the Interception of Privileged Communications**

16 The Commission will continue to work on this topic. As an aid to that study,  
17 the staff will request that the Los Angeles District Attorney’s office provide a  
18 written description of the process that it follows to minimize the interception of  
19 privileged electronic communications.

20 **Use of an Administrative Subpoena**

21 The Commission will continue to work on this topic.

22 STUDY J-1406.1 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING  
23 (PART 7): COMPLETION OF STUDIES UNDER GOVERNMENT CODE SECTION 70219

24 The Commission considered Memorandum 2020-46, which presents a draft  
25 recommendation on *Trial Court Restructuring Clean-Up: Completion of Studies*  
26 *Under Government Code Section 70219*. The Commission decided to make the  
27 following revision to that draft:

28 Footnote 14 should include a citation to CLRC Memorandum  
29 2010-40, which explains that the enactment of legislation on  
30 expedited jury trials followed from the study of jurisdictional limits  
31 that the Judicial Council and the Commission conducted pursuant  
32 to Government Code Section 70219.

1 Subject to that revision, the Commission approved the draft as a final  
2 recommendation, for publication and submission to the Legislature and the  
3 Governor.

4 STUDY L-3032.5 — STOCK COOPERATIVES AND THE  
5 UNIFORM TOD SECURITY REGISTRATION ACT

6 The Commission considered Memorandum 2020-56, which discusses the  
7 adaptation of the Uniform TOD Security Registration Act (Probate Code Sections  
8 5500-5512) to allow a nonprobate transfer of an owner’s interest in a stock  
9 cooperative.

10 The Commission decided that the proposed law should parallel the revocable  
11 transfer on death deed statute, on the following points:

- 12 • The proposed law should require the use of a mandatory statutory  
13 form that would be limited to a single type of transfer — equal  
14 division between named beneficiaries with no lineal descent in the  
15 event that a beneficiary predeceases the transferor.
- 16 • The proposed law should provide two ways to revoke a transfer  
17 on death designation for an interest in a stock cooperative, either  
18 the execution of a statutory form or the execution of a subsequent  
19 designation for the same property.
- 20 • The proposed law should require that a transferor have the  
21 capacity to contract, rather than testamentary capacity.

APPROVED AS SUBMITTED

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Date

APPROVED AS CORRECTED  
(for corrections, see Minutes of next meeting)

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Chairperson

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Executive Director