

Memorandum 2023-36

2023 Legislative Program (Status Report)

This memorandum provides an update on the Commission's 2023 Legislative Program.¹ All of the bills that would implement Commission recommendations continue to make progress.

STATUS UPDATES

Stock Cooperatives and Revocable Transfer on Death Deeds

Assembly Bill 288 (Maienschein) has been enacted. It is Chapter 62 of the Statutes of 2023.

Administrative Subpoena

Assembly Bill 522 (Kalra) would implement the Commission's recommendation on *State and Local Agency Access to Electronic Communications: Notice of Administrative Subpoena* (Mar. 2022). It was approved by the Senate Committees on Judiciary and Public Safety. It is now before the Senate Committee on Appropriations.

The author's office is currently involved in discussions with an affected group about possible amendments.

Trial Court Restructuring

As indicated in the First Supplement to Memorandum 2023-31, the content from the following recommendations has been amended into Assembly Bill 1756 (Committee on Judiciary):

- (1) *Statutes Made Obsolete by Trial Court Restructuring: Part 8* (Jan. 2022).

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). 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) *Statutes Made Obsolete by Trial Court Restructuring (Part 9): Jurisdictional Classification of a Drug Asset Forfeiture Proceeding* (Aug. 2022).

When that material was amended into AB 1756, two items from the first recommendation were excluded.

The first excluded item is a proposed amendment to Penal Code Section 2620. **The staff will seek to get that amendment included in future legislation.**

The second excluded item is an uncodified “savings clause” which applied to the entirety of the bill. When the Commission’s content was in a stand-alone bill, a bill-wide savings clause made sense. When that content was moved to an omnibus bill, the bill-wide savings clause no longer made sense (because it would apply to provisions other than those recommended by the Commission).

The staff does not believe that the omission of the uncodified savings clause will cause any serious problem. It was a component of a very cautious approach to the repeal of provisions related to judicial benefits, which could possibly have some continued application to former court employees or their beneficiaries. To protect against inadvertently affecting the rights of such persons, the provisions would be repealed with a 50-year sunset date and governed by a section-specific savings clause (see, e.g., proposed Government Code Section 73643, below).² Those repeals would also be governed by the bill-wide savings clause. Losing that additional global savings clause is unlikely to have any real-world effect.

The exclusion of the uncodified savings clause will, however, require adjustments to several Commission Comments. The Comments that cite the uncodified clause are all structured similarly. In each case, the Comment refers to both the savings clause in the specific provision and the uncodified savings clause. References to the uncodified savings clause will need to be struck, as shown for proposed Government Code Section 73643 below.

Gov’t Code § 73643 (added). Repeal of Article 9

SEC. ____ . Section 73643 is added to the Government Code, to read:

73643. (a) This article shall remain in effect only until January 1, 2072, and as of that date is repealed unless a later-enacted statute, which is enacted before January 1, 2072, deletes or extends that date.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Section 73643 is added to provide for the automatic repeal

² See Memorandum 2020-63, pp. 11-13; Minutes (Nov. 2020), p. 4; Memorandum 2021-28, pp. 2-3.

of Article 9 (commencing with Section 73640), relating to the municipal court in the El Cajon Judicial District, which was located in San Diego County. To protect persons who served that court, as well as their beneficiaries, this repeal is delayed for fifty years. It is also subject to the saving clause in subdivision (b) ~~and the uncodified saving clause in the act that added this section.~~

The staff recommends that the relevant Comments be revised as shown above.

Fish and Game

Assembly Bill 1760 (Committee on Water, Parks, and Wildlife) has been enacted. It is Chapter 132 of the Statutes of 2023.

There is another bill (Senate Bill 500 (McGuire)) that conflicts with several provisions of AB 1760. Senator McGuire has decided to incorporate the effect of those provisions into SB 500, to avoid chaptering them out.

Respectfully submitted,

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Executive Director