

First Supplement to Memorandum 2023-42

2023 Legislative Program (Status Report)

This memorandum discusses two Commission-recommended bills that ran into some minor complications during the legislative process.¹

Trial Court Restructuring

As enacted,² Assembly Bill 1756 (Committee on Judiciary) included language to implement two Commission recommendations related to trial court restructuring:

- (1) *Statutes Made Obsolete by Trial Court Restructuring: Part 8* (Jan. 2022).
- (2) *Statutes Made Obsolete by Trial Court Restructuring (Part 9): Jurisdictional Classification of a Drug Asset Forfeiture Proceeding* (Aug. 2022).

When that material was first amended into AB 1756, two items from the first recommendation were omitted. Those omissions were discussed in Memorandum 2023-36. That discussion is largely reiterated below as background.

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. No Commission action is required at this time.**

The second excluded item is an uncodified “savings clause” that applied to the entirety of the bill. When the Commission’s content was originally in a stand-alone bill, a bill-wide savings clause made sense. When that content was later 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).

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. 2023 Cal. Stat. ch. 478.

The staff does not believe that the omission of the uncodified savings clause will cause any serious problem. It was just one component of a very cautious approach to the repeal of provisions related to judicial benefits, which could possibly still 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(b), below).³ In addition, those repeals would be backstopped by the bill-wide savings clause. Losing that backstop is unlikely to have any real-world effect. The other two protections against inadvertent effects should be ample.

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 deleted, as shown for proposed Government Code Section 73643 below.

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 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.~~

A draft of the revised Comments is attached for review and approval.

Fish and Game

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

A later-enacted bill,⁴ Senate Bill 500 (McGuire) amended three sections that were also included in AB 1760 (Fish and Game Code Section 8041, 8043, 8047).

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

4. 2023 Cal. Stat. ch. 876.

Because AB 1760 contained a “subordination” clause,” those provisions of AB 1760 did not take effect.

However, before SB 500 left the Legislature, it was amended to minimize the conflict between the two bills. Some of the substance of the subordinated sections was added to SB 500. The staff is grateful to Senator McGuire and his staff for that act of comity.

In this type of situation, the Commission would ordinarily try to revise its Comments to clearly identify which of the changes to the section were based on the Commission’s recommendation. In this case, it would be too difficult to untangle the complexly interwoven changes made by SB 500.

Rather than trying to revise the Comments, the staff recommends that the Commission simply accept that the subordinated sections will not take effect. As part of the normal process of transmitting relevant Commission Comments to publishers at the end of each legislative year, the staff will make clear that our Comments should not be part of the history for the subordinated sections. The Comments will remain in the recommendation to explain the Commission’s intention, but will not be attributed to the changes made by SB 500.

Because the amendments to SB 500 did a good job of approximating the effect of the Commission’s recommendation, the staff does not intend to seek reintroduction of the subordinated sections.

Respectfully submitted,

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Executive Director

REPORT OF THE
CALIFORNIA LAW REVISION COMMISSION
ON CHAPTER 478 OF THE STATUTES OF 2023
(ASSEMBLY BILL 1756)

Trial Court Restructuring: Part 8

Chapter 478 of the Statutes of 2023 was introduced as Assembly Bill 1756, authored by the Committee on Judiciary. In addition to other changes, the measure implements provisions from the Commission's recommendation on *Statutes Made Obsolete by Trial Court Restructuring: Part 8*, 49 Cal. L. Revision Comm'n Reports ___ (2022).

The revised Comments set out below supersede the comparable Comments in the recommendation. They reflect changes made during the legislative process.

Revised Comments

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

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

Gov't Code § 73953 (added). Repeal of Article 16

Comment. Section 73953 is added to provide for the automatic repeal of Article 16 (commencing with Section 73950), relating to the municipal court in the North County 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).

Gov't Code § 74146 (added). Repeal of Article 20

Comment. Section 74146 is added to provide for the automatic repeal of Article 20 (commencing with Section 74130), relating to the municipal

courts in Riverside County. To protect persons who served those courts, as well as their beneficiaries, this repeal is delayed for fifty years. It is also subject to the saving clause in subdivision (b).

Gov't Code § 74343 (added). Repeal of Article 25

Comment. Section 74343 is added to provide for the automatic repeal of Article 25 (commencing with Section 74340), relating to the municipal court in the San Diego Judicial District. 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).

Gov't Code § 74743 (added). Repeal of Article 30

Comment. Section 74743 is added to provide for the automatic repeal of Article 30 (commencing with Section 74740), relating to the municipal court in the South Bay 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).

Gov't Code § 77210 (amended). Benefits for municipal court judges retired under Judges' Retirement System

Comment. Section 77210 is amended to provide for its automatic repeal. To protect municipal court judges who retired under the Judges' Retirement System, as well as their beneficiaries, this repeal is delayed for fifty years. It is also subject to the saving clause in subdivision (b).
