
MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
MARCH 14-15, 2002
SACRAMENTO

A meeting of the California Law Revision Commission was held in Sacramento on March 14-15, 2002.

Commission:

Present: Joyce G. Cook, Chairperson
Howard Wayne, Assembly Member, Vice Chairperson
David Huebner
Frank M. Kaplan
Edmund L. Regalia
William E. Weinberger

Absent: Bill Morrow, Senate Member

Staff: Nathaniel Sterling, Executive Secretary
Stan Ulrich, Assistant Executive Secretary
Barbara S. Gaal, Staff Counsel
Brian P. Hebert, Staff Counsel
Lynne I. Urman, Staff Counsel

Consultants: None

Other Persons:

David Bienick, KCRA-TV 3, Sacramento (Mar. 15)
Sandra Bonato, Executive Council of Homeowners, San Jose (Mar. 15)
John Broodlove, KCRA-TV 3, Sacramento (Mar. 15)
Oliver Burford, Executive Council of Homeowners, San Jose (Mar. 15)
Andy Cave, Kingvale (Mar. 15)
Karon Cave, Kingvale (Mar. 15)
Gary Cramer, California Court Reporters Association; Service Employees International Union (Local 660); Los Angeles County Court Reporters Association, Los Angeles (Mar. 14)
Pamela Fisk, California Official Court Reporters Association, Redwood City (Mar. 14)
Janet Grove, Administrative Office of the Courts, San Francisco (Mar. 14)
Mary Kaufman, Homeowners Association Abuse (Mar. 15)
Marjorie Murray, Bill of Rights Coalition, Sacramento (Mar. 15)
Claudia Ortega, Administrative Office of the Courts, San Francisco (Mar. 14)
John O. Pearson, Granite Bay (Mar. 15)

1 and organizations, and will schedule it for Commission consideration at the July
2 meeting.

3 The Commission also anticipates receiving during the coming year
4 background studies on the Uniform Trust Code (Prof. David English), a
5 comparison of the California Evidence Code with the Federal Rules and the
6 Revised Uniform Rules (Prof. Miguel Mendez), and a survey of arbitration
7 statutes of other jurisdictions (Prof. Roger Alford). In addition, the Commission
8 has in hand a survey of discovery statutes of other jurisdictions (Prof. Greg
9 Weber), which it will begin considering at the May meeting. In connection with
10 the arbitration study, the staff will communicate to Prof. Alford that the scope of
11 the survey should not include mandatory arbitration clauses — that matter is
12 currently being addressed by the Legislature.

13 We are hoping to have one or more students working in our offices this
14 summer as interns on a volunteer basis. The staff is in the process of interviewing
15 candidates.

16 **LEGISLATIVE PROGRAM**

17 The Commission considered Memorandum 2002-12, relating to the
18 Commission's 2002 legislative program.

19 The staff orally updated the chart attached to the memorandum with the
20 information that AB 1857 is rescheduled for hearing April 9, SB 1322 was
21 amended March 13 and is scheduled for hearing March 19, and AB 1371 is
22 scheduled for hearing March 19.

23 The Commission also took action concerning the following bills:

24 **ACA 15 (Wayne) – Trial Court Restructuring**

25 See the entry in these Minutes under Study J-1400.

26 **SB 1316 (Senate Judiciary Committee) – Trial Court Restructuring**

27 See the entry in these Minutes under Study J-1400.

28 **SB 1322 (Ackerman) – Debtor-Creditor Law Technical Revisions**

29 The Commission reviewed and approved the amendments as set out in the
30 memorandum.

31 **SB 1323 (Ackerman) – Municipal Bankruptcy**

32 The Commission reviewed and approved the amendments as set out in the
33 memorandum.

1 **SB 1371 (Morrow) – Cases in Which Court Reporter is Required**

2 See the entry in these Minutes under Study J-1306.

3 STUDY H-851 – NONJUDICIAL DISPUTE RESOLUTION UNDER CID LAW

4 **Procedural Fairness in Association Rulemaking and Decisionmaking**

5 The Commission considered Memorandum 2002-9 and its First Supplement,
6 presenting a draft tentative recommendation relating to procedural fairness in
7 common interest development rulemaking and architectural review. The
8 Commission also received written materials at the meeting relating to this matter,
9 which are attached to the Second Supplement to Memorandum 2002-9.

10 The Commission directed the staff to prepare a revised draft tentative
11 recommendation implementing the following decisions:

12 *Written Rules*

13 The staff should draft a provision requiring that the operating rules of a
14 homeowners association be in writing.

15 *Civ. Code § 1357.1. “Operating rule” defined*

16 Subdivision (a) of proposed Section 1357.1 should be deleted. Subdivision (b)
17 should be redrafted to read substantially as follows:

18 “Operating rule” does not include the following:

19 (1) A decision in a specific case, that is not intended to apply
20 generally.

21 (2) A decision setting the amount of a regular or special
22 assessment.

23 (3) A mere repetition of law or of the governing documents of
24 the association.

25 A provision should be added limiting application of the proposed rulemaking
26 and referendum procedures to certain classes of operating rules. The provision
27 would read substantially as follows:

28 (a) Sections 1357.3 to 1357.5, inclusive, only apply to an
29 operating rule adopted by the board of directors of an association
30 to regulate one of the following subjects:

31 (1) Use of the common area.

32 (2) Use of a separate interest.

33 (3) Use of an exclusive use common area.

34 (4) Member discipline.

1 (5) Procedures for collection of assessments.

2 (b) Notwithstanding subdivision (a), Sections 1357.3 to 1357.5,
3 inclusive, do not apply to an operating rule that is required by law,
4 where the board of directors has no discretion as to the substance of
5 the rule.

6 In drafting this provision, the staff will consider whether “member discipline”
7 should be defined.

8 *Civ. Code § 1357.3. Rulemaking procedure*

9 Elements of the rulemaking procedure that are described in proposed Section
10 1357.3(a)(2)-(3) should also be stated separately as procedural requirements.

11 Subdivision (b) should be revised to read substantially as follows:

12 (b) A final decision to adopt, amend, or repeal an operating rule
13 takes effect 15 days after the date the board of directors delivers a
14 copy of the adoption, amendment, or repeal to the members of the
15 association. For the purpose of this subdivision, the date of delivery
16 is the date the notice is sent, and not the date of receipt.

17 Language should be added providing that a failure to deliver notice as
18 required does not render a rule invalid if there has been substantial compliance
19 with the notice requirement, in good faith.

20 *Civ. Code § 1357.4. Emergency rulemaking procedure*

21 Language should be added to make clear that a rule may only be adopted
22 once under the emergency rulemaking procedure. If a board wishes to readopt
23 an emergency rule, it must use the regular rulemaking procedure (proposed
24 Section 1357.3).

25 *Civ. Code § 1357.5. Referendum on operating rule*

26 A rule adopted on an emergency basis under proposed Section 1357.4 should
27 not be subject to the referendum procedure. However, if an emergency rule is
28 readopted under the regular rulemaking procedure, it would then be subject to
29 the referendum procedure.

30 The number of signatures required for a referendum petition should be 25
31 percent of the separate interests or 500 separate interests, whichever number is
32 less.

33 The following language should be added to proposed Section 1357.5(c):

1 An election held pursuant to this subdivision shall be conducted
2 in accordance with Chapter 5 (commencing with Section 7510) of
3 Part 3 of Division 2 of Title 1 of, and Section 7613 of, the
4 Corporations Code.

5 *Civ. Code § 1357.7. Delivery of notices*

6 Language relating to the manner of delivery of notices should be deleted
7 throughout the proposed rulemaking provisions, and proposed Section 1357.7
8 should be redrafted to read substantially as follows:

9 1357.7. (a) Where this article provides for delivery of a notice,
10 comment, or other document, the document shall be delivered by
11 one of the following methods:

12 (1) Personal delivery.

13 (2) First class mail.

14 (3) Email, facsimile, or other electronic means, where the sender
15 and recipient have agreed to that method of delivery.

16 (b) A notice or other document that is to be delivered pursuant
17 to this article may be included in or delivered with a billing
18 statement, newsletter, or other document that is delivered by one of
19 the methods provided in subdivision (a).

20 (c) If feasible, a notice or other document that is to be delivered
21 pursuant to this article shall also be posted in a prominent place
22 within the common area.

23 The staff should also draft language making clear that an individual member's
24 agreement to accept electronic delivery is not to be inferred from a provision of
25 the governing documents authorizing electronic communications.

26 *Civ. Code § 1379. Review of proposed alteration of separate interest*

27 The procedure for review of a proposed alteration of a member's separate
28 interest provided in proposed Section 1379 should be made mandatory, with
29 language expressly providing that the statutory procedure overrides any
30 inconsistent provision in an association's governing documents. Conforming
31 changes should be made to proposed Section 1378.

32 Subdivision (d) should be revised to require that a written decision be
33 delivered to any person with standing to appeal that decision under subdivision
34 (f), and not just to the applicant. If a decision is not delivered in the time
35 required, the application should be deemed approved. A note should be added
36 to the draft tentative recommendation specifically requesting comment on
37 whether an application should be deemed approved or disapproved where a

1 board does not issue a decision in the time required. The note should emphasize
2 that an architectural decision may affect members of an association other than the
3 applicant.

4 Proposed Section 1379(f) should be revised to provide that the period for
5 appeal of an initial decision is 30 days.

6 *Issues for Future Consideration*

7 The Commission will consider the following issues at a future date:

- 8 (1) Whether there should be a cap on the costs that can be charged to a
9 member for collection of an overdue assessment. In particular, the
10 staff should consider the extent to which existing foreclosure
11 procedures applicable to a deed of trust are or should be
12 applicable to foreclosure for collection of an overdue assessment.
- 13 (2) Whether the seller's disclosure requirements provided in Civil
14 Code Section 1368 (requiring, among other things, provision of an
15 association's governing documents), should be incorporated in the
16 seller's disclosure requirements provided in Civil Code Section
17 1102 *et seq.*
- 18 (3) Whether there are any constitutional obstacles to imposition of
19 uniform statutory procedures for decisionmaking by a
20 homeowners association.
- 21 (4) Whether the term "member" should be defined for the purposes of
22 the Davis-Stirling Common Interest Development Act.
- 23 (5) Whether member election procedures should be refined to make
24 clear how votes are counted where a separate interest is owned by
25 more than one person.

26 **Alternative Dispute Resolution**

27 The Commission began consideration of Memorandum 2002-10 and its First
28 Supplement, relating to alternative dispute resolution under common interest
29 development law. The Commission covered the first 13 pages of the
30 memorandum.

31 The Commission discussed the concept of providing a statutory mechanism
32 for a kind of "meet and confer" between a homeowner and a designated board
33 member when a dispute arises. A number of questions were raised concerning
34 such a procedure, including whether it would be mandatory, whether further
35 ADR would be required if the meet and confer process fails to resolve the issue
36 (or whether the parties could proceed immediately to court), whether meet and
37 confer could be provided as a default (allowing an individual association to

1 provide an alternative dispute resolution process that may be more appropriate
2 to its circumstances), whether meet and confer should apply in small cases that
3 could readily be resolved by means of the small claims procedure, whether the
4 parties would not already have communicated with each other informally before
5 their dispute reaches the level of threatened litigation, and whether it is possible
6 to legislate common sense.

7 The Commission decided not to pursue the meet and confer concept.
8 However, the Commission was interested in exploring the possibility of
9 requiring associations to adopt an internal dispute resolution mechanism.

10 STUDY J-1304 – STAY OF MECHANIC’S LIEN ENFORCEMENT
11 PENDING ARBITRATION

12 The Commission considered Memorandum 2002-15, concerning comments on
13 the revised tentative recommendation on *Stay of Mechanic’s Lien Enforcement*
14 *Pending Arbitration*. The Commission approved the proposal as a final
15 recommendation for printing and submission to the Legislature.

16 STUDY J-1306 – CASES IN WHICH COURT REPORTER IS REQUIRED

17 The Commission considered Memorandum 2002-16, concerning issues
18 relating to SB 1371 (Morrow), which would implement the Commission’s
19 recommendation on *Cases in Which Court Reporter Is Required*. The Commission
20 made the following decisions:

21 **Code Civ. Proc. § 269. Reporting of cases**

22 In SB 1371, the amendment of Code of Civil Procedure Section 269 should be
23 left as is. The Commission agreed to study whether the provision should be
24 further amended to cover arguments of the attorneys to the court in a bench trial,
25 as suggested by the Los Angeles County Superior Court.

26 **Gov’t Code § 69950. Transcription fee**

27 In SB 1371, the amendment of Government Code Section 69950 should be left
28 as is. The Commission agreed to study whether the provision should be further
29 amended to define “word,” as suggested by the California Court Reporters
30 Association and the Los Angeles County Court Reporters Association.

1 **Penal Code § 1539. Transcript of special hearing**

2 The text of the amendment of Penal Code Section 1539 should not be
3 changed. The Comment should be revised to read:

4 **Comment.** Section 1539 is amended to make clear that it applies
5 only to a special hearing in a felony case pursuant to Section 1538.5.
6 This implements the principle that trial court unification did not
7 change the extent to which court reporter services or electronic
8 reporting is used in the courts. 1998 Cal. Stat. ch. 931, § 507; *Trial*
9 *Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n
10 Reports 51, 60 (1998); see also 1997 Cal. Stat. ch. 279, § 3 (former
11 Section 1538.5(g), (i)).

12 As before unification, Section 1539 does not address whether
13 shorthand or other verbatim reporting is required at a special
14 hearing in a misdemeanor case pursuant to the state or federal
15 Constitution or some other provision of law. For cases relating to
16 the extent to which a defendant may be constitutionally entitled to
17 a verbatim record at public expense in a misdemeanor case, see
18 *Ryan v. Commission on Judicial Performance*, 45 Cal. 3d 518, 541-
19 42, 754 P.2d 724, 247 Cal. Rptr. 378 (1988); *Andrus v. Municipal*
20 *Court*, 143 Cal. App. 3d 1041, 1049-56, 192 Cal. Rptr. 341 (1983); *In*
21 *re Armstrong*, 126 Cal. App. 3d 565, 178 Cal. Rptr. 902 (1981).

22 Section 1539 is also amended to reflect elimination of the county
23 clerk's role as ex officio clerk of the superior court. See former Gov't
24 Code § 26800 (county clerk acting as clerk of superior court). The
25 powers, duties, and responsibilities formerly exercised by the
26 county clerk as ex officio clerk of the court are delegated to the
27 court administrative or executive officer, and the county clerk is
28 relieved of those powers, duties, and responsibilities. See Gov't
29 Code §§ 69840 (powers, duties, and responsibilities of clerk of
30 court), 71620 (trial court personnel).

31 Conforming revisions should be made in the preliminary part of the
32 recommendation.

33 **STUDY J-1400 – STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING**

34 The Commission considered Memorandum 2002-14 and its First Supplement,
35 Memorandum 2002-17 and its First Supplement, and Memorandum 2002-18,
36 concerning the Tentative Recommendation on *Statutes Made Obsolete by Trial*
37 *Court Restructuring* (November 2001). The Commission received additional
38 written materials at or before meeting relating to this matter, which are attached
39 to the Second Supplement to Memorandum 2002-14.

1 Except as noted below, the Commission adopted the staff recommendations
2 made in the memoranda prepared for the meeting. The Commission approved
3 the recommendation for printing and submission to the Legislature, subject to
4 the following revisions.

5 **Sessions and Facilities**

6 Although provisions relating to sessions and facilities will not be addressed in
7 the recommendation, the technical revisions to statutes that include sessions and
8 facilities provisions should be included in the recommendation.

9 **Court Clerks**

10 The Commission considered the proposal of the Los Angeles County Superior
11 Court that a provision be added to make court clerks and court executive officers
12 expressly subject to Division 4 of Title 1 of the Government Code (“Public
13 Officers and Employees”). The Commission decided not to include such a
14 provision in the current recommendation, but directed staff to research the issue.
15 The Commission also decided not to propose implementation of the court’s
16 suggestion that the provisions of Government Code Section 69840 be relocated to
17 Government Code Section 71620. The Commission will review the organization
18 of Title 8 of the Government Code following enactment of the pending
19 legislation.

20 **Court Order for Return of Deposit**

21 The Commission decided to proceed with the proposed technical revisions to
22 sections that permit a court to order the return of a deposit. The Commission
23 directed the staff to consider, as part of the *Civil Procedure: Technical Corrections*
24 study, whether a procedure for the return of a deposit should be specified in the
25 statutes.

26 **Compensation of Official Reporter**

27 *Superior Court Compensation Statutes*

28 The staff noted that it is seeking to schedule a session of the working group
29 on official reporter compensation for late April or early May. We have now
30 received expressions of interest in this from the principal stakeholders.

1 *Los Angeles Reporters' Salary Fund*

2 The Commission approved for inclusion in the recommendation proposed
3 Government Code Sections 72708-72713, as suggested in the First Supplement to
4 Memorandum 2002-14.

5 **Jury Venires**

6 The Commission approved the treatment of Code of Civil Procedure Sections
7 198.5, 199, 199.2 199.3, and 199.5, as recommended by the staff, but directed the
8 staff to research the impact of unification and the elimination of judicial districts
9 on the composition of jury pools.

10 **Judicial Benefits**

11 Commissioners Cook and Huebner recused themselves on the issue of
12 judicial benefits.

13 The Commission adopted the staff recommendation to preserve intact
14 statutes concerning judicial benefits until the interested parties have resolved
15 outstanding issues. Government Code Sections 22754.35, 53200.3, 53214.5,
16 69893.7, and 69894.3 should be removed from the recommendation. The
17 municipal court provisions (Gov't Code §§ 73642, 73952, 74145, 74342, 74742)
18 should be reenacted without change.

19 **Los Angeles County Sheriff-Marshal Consolidation Article**

20 The Commission considered the Los Angeles County sheriff and marshal
21 consolidation statutes. The Commission approved the proposed revisions to
22 Government Code Sections 26639-26639.3, and deletion of the proposed sunset
23 provision (Gov't Code § 26639.4), as drafted in Memorandum 2002-14, with one
24 change. The reference to "Los Angeles Superior Court" in Section 26639.2 should
25 be changed to "Los Angeles County Superior Court." The Commission directed
26 the staff to send these revisions to the Los Angeles County Sheriff and the
27 Association of Los Angeles Deputy Sheriffs for review.

28 **Cal. Const. Art. VI, § 5. Municipal court**

29 The Commission decided to propose repeal of Section 5 as drafted in the
30 tentative recommendation. The Commission determined that additional
31 revisions or commentary relating to a superior court's authority to maintain
32 separate filing districts within its jurisdiction are unnecessary.

1 **Cal. Const. Art. VI, § 23. Transitional provision**

2 The Commission approved the revised staff proposal to defer the operative
3 date of the repeal of Section 23, to January 1, 2007.

4 **Code Civ. Proc. § 75. Submission of noncontested matter**

5 The Commission decided to narrow the scope of the proposed revision of
6 Section 75 by limiting it to instances when all judges of the superior court are
7 absent from the county.

8 **Code Civ. Proc. § 86.1. Long-Term Care, Health, Safety, and Security Act**

9 The Commission decided to proceed with the amendment of Section 86.1 as
10 proposed in the tentative recommendation. In the study of *Civil Procedure:*
11 *Technical Corrections*, the staff should examine whether revisions are needed to
12 eliminate any ambiguity concerning whether the \$25,000 figure references the
13 amount sought or the amount awarded.

14 **Code Civ. Proc. § 215. Fees and mileage for jurors**

15 The Commission decided to proceed with the amendment to Section 215 as
16 proposed in the tentative recommendation. The Commission will not study
17 issues raised by the Los Angeles County Superior Court concerning mileage
18 reimbursement because other groups are working in this area.

19 **Code Civ. Proc. § 259. Powers of court commissioners**

20 The Commission adopted the staff's recommendation to remove Section 259
21 from the recommendation. The staff should schedule for further study the issue
22 of authorization of a temporary judge by one party acting alone.

23 **Code Civ. Proc. § 396. Court without jurisdiction**

24 The Commission decided to proceed with the amendment of Section 396 as
25 proposed in the tentative recommendation . An Administrative Office of the
26 Courts representative indicated that this section may also be addressed in a bill
27 sponsored by the Judicial Council. The staff will check for potential conflicts or
28 possible double-jointing issues.

29 **Code Civ. Proc. §§ 1141.11, 1141.12. Arbitration**

30 Sections 1141.11 and 1141.12 should be amended as proposed in the tentative
31 recommendation, with one change. The comma after "Section 1141.11" and

1 before “or pursuant to a local rule ...” in Section 1141.12 should be deleted. See
2 the First Supplement to Memorandum 2002-17.

3 Issues raised by the Administrative Office of the Courts relating to overlap of
4 subdivisions (b) and (c) of Section 1141.11 should be considered in the
5 Commission study of arbitration. The use of the term “at issue” in Sections
6 1141.11 and 1141.12 should be considered in the study of *Civil Procedure: Technical*
7 *Corrections*.

8 **Food & Agric. Code § 30801. Issuance of dog licenses**

9 The Commission decided that determination of whether issuance of dog
10 licenses is an executive or court function is not appropriate for the Commission.
11 Section 30801 should be amended as proposed in the tentative recommendation.

12 **Gov’t Code § 16265.6. Implementation of Trial Court Funding Act of 1985**

13 The Commission decided to study Section 16265.6 and related sections for
14 possible inclusion in subsequent legislation on trial court restructuring.

15 **Gov’t Code § 26859. Fees for dissolution and other petitions**

16 Government Code Section 26859 should not be amended as proposed by the
17 staff in the First Supplement to Memorandum 2002-17, but should be removed
18 from the recommendation pending work on the section by interested persons, as
19 suggested in Memorandum 2002-14.

20 **Gov’t Code § 68073. Responsibility for court operations and facilities**

21 The Commission decided not to proceed with the proposed deletion of
22 subdivision (f) of Section 68073, but to proceed with the other proposed revisions
23 to Section 68073. The continuing usefulness of subdivision (f) should be included
24 in discussions of the working group on official reporter compensation.

25 **Gov’t Code § 68108. Unpaid furlough days**

26 The Commission decided to proceed with the amendments to Section 68108
27 proposed in the tentative recommendation, but to study the section’s continuing
28 usefulness further.

29 **Gov’t Code § 69894.4. Expense allowances**

30 Comments to the proposed repeal of Section 69894.4 indicate that the
31 provision relating to use of an automobile in lieu of reimbursement is an
32 unsettled issue and not ripe for repeal. The Commission decided to defer work

1 on this section until the interested parties have resolved this issue — the entire
2 section should be removed from the recommendation.

3 **Gov't Code § 69897. Probate commissioners**

4 The staff informed the Commission that the Court Commissioners
5 Association agrees that this section should be repealed in its entirety. The
6 Commission decided to recommend repeal of Section 69897.

7 **Gov't Code § 69955. Reporting notes**

8 The Commission adopted the staff's recommendation to bring the issue of
9 reimbursement of the cost of storing notes to the working group on reporter
10 compensation. The Commission will recommend only the minor amendments
11 proposed to this section.

12 **Gov't Code § 72194.5. Use of electronic equipment**

13 Section 72194.5 should be renumbered as Section 69957, not as Section 69956.

14 **Health & Safety Code § 11758.54. Evaluation of alcohol detoxification and**
15 **intravenous drug user AIDS education pilot project**

16 The staff has not yet determined the status of the pilot project referenced in
17 Section 11758.54. The section should be removed from the recommendation. The
18 staff will investigate the matter further.

19 **Health & Safety Code § 103200. Transmittal to State Registrar**

20 Since Government Code Section 26859 is to be removed from the proposed
21 legislation, the proposed conforming revision to Health and Safety Code Section
22 103200 should be deferred as well.

23 **Lab. Code 98.1. Order, decision, or award**

24 The Commission decided to delete the word "appropriate" from the last
25 sentence of Section 98.1(a), referring to a judgment by the "appropriate superior
26 court".

27 **Penal Code §§ 896, 900, 904, 932, 933. Grand juries**

28 The staff reported that in Los Angeles County court personnel perform the
29 work relating to the selection of grand jurors, but the county reimburses the court
30 for the personnel cost. The staff also reported that the Los Angeles County
31 Superior Court has raised the possibility that the statute could be revised to refer

1 to the jury commissioner’s performance of the selection duties. The staff noted
2 that various issues relating to jury commissioners are being researched
3 separately.

4 The Commission decided to remove Sections 896, 900, and 904 from the
5 recommendation and consider them as part of the work on jury commissioners.
6 The revisions to Sections 932 and 933 should proceed as proposed in the tentative
7 recommendation.

8 **Penal Code § 1269b. Bail**

9 The Commission adopted the staff’s recommendation to remove Section
10 1269b from the recommendation and investigate alternatives. The alternatives
11 might include (1) adoption of a simplified procedure or (2) keeping the existing
12 procedure in place as a default while permitting courts to adopt a procedure
13 more suited to their circumstances.

14 **Welf. & Inst. Code § 247. Juvenile court referees**

15 The Commission decided to remove Section 247 from the recommendation
16 while the staff investigates several issues concerning its continuing usefulness,
17 application, and interplay with Government Code Section 71622.

18 **Welf. & Inst. Code § 742.16. Cleanup, repair, replacement, or restitution**

19 Section 742.16 should be amended as proposed in the tentative
20 recommendation. When time permits, the staff should investigate whether to
21 make further revisions to clarify the reference to “an ordinary civil proceeding
22 pursuant to subdivision (b) of Section 1714.1 of the Civil Code.”

23 **Welf. & Inst. Code § 6776. Number and compensation of counselors in mental**
24 **health**

25 The reference to “numbers” in the second sentence of Section 6776 should be
26 changed to “number.”

27 **STUDY L-4005 – HEALTH CARE DECISIONS BY CONSERVATORS**

28 The Commission considered Memorandum 2002-2 concerning the California
29 Supreme Court’s decision in *Conservatorship of Wendland*, 26 Cal. 4th 519 (2001).
30 The Commission decided not to give further consideration to this matter in the
31 near future, but the staff should continue to monitor legislative and judicial
32 developments and report to the Commission when it appears appropriate.

1 The Commission expressed concern over the *Wendland* discussion of the
2 status of the Commission's Comments. (See 26 Cal. 4th at 542.) The staff was
3 directed to consider options for bolstering and clarifying the status of
4 recommendations and Comments as evidence of legislative intent. Ideas
5 discussed at the meeting included expanding the discussion of this point in the
6 Annual Report, enacting or amending general rules on legislative intent,
7 encouraging legislators carrying Commission bills to include an appropriate
8 statement in the record, and including language in uncodified bill sections
9 referring to the relevant Commission recommendation.

10 **STUDY M-1306 – CASES IN WHICH COURT REPORTER IS REQUIRED**

11 See the entry in these Minutes under Study J-1306.

APPROVED AS SUBMITTED

Date

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

Chairperson

Executive Secretary