
MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
DECEMBER 11, 2008
BURBANK

A meeting of the California Law Revision Commission was held in Burbank on December 11, 2008.

Commission:

Present: Pamela L. Hemminger, Chairperson
Sidney Greathouse
Frank Kaplan
Susan Duncan Lee, Vice-Chairperson
William E. Weinberger
Justice John Zebrowski

Absent: Diane Boyer-Vine, Legislative Counsel
Ellen Corbett, Senate Member
Noreen Evans, Assembly Member

Staff:

Present: Brian Hebert, Executive Secretary
Barbara Gaal, Chief Deputy Counsel
Steve Cohen, Staff Counsel

Absent: Catherine Bidart, Staff Counsel

Consultants: None

Other Persons:

David Huebner, Sheppard Mullin Richter & Hampton
Lindsay Nichols, Legal Community Against Violence
Dick Pruess, Community Associations Institute

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1 MINUTES OF OCTOBER 29, 2008, COMMISSION MEETING

2 The Commission approved the Minutes of the October 29, 2008, Commission
3 meeting as submitted by the staff.

ADMINISTRATIVE MATTERS

4 **New Topics and Priorities**

5 The Commission considered Memorandum 2008-54, relating to new topics
6 and priorities, and made the following decisions:

- 7 • The Commission will study the treatment of unrecorded options
8 under the Marketable Title Act. (A recent opinion of the Attorney
9 General on recordation of a memorandum of title may be relevant
10 to this study.)
- 11 • As resources permit, the Commission will study clarification of the
12 statutes governing place of trial in a civil case.
- 13 • The staff will continue to examine the law and practice involved in
14 electronic submissions to state agencies and will report its findings
15 in the next memorandum on new topics and priorities, which is
16 expected to be presented in October 2009.

17 **Annual Report**

18 The Commission considered Memorandum 2008-55, presenting a staff draft
19 of the 2008-2009 Annual Report.

20 The Commission approved the draft as its final report, with the
21 understanding that the staff will make minor changes to reflect decisions made at
22 the December 11, 2009, Commission meeting (relating to the Commission’s 2009
23 program of work). The staff will also add a resolution honoring former

1 Commissioner Ed Regalia for his service to the Commission, after submitting a
2 draft of the resolution to the Chairperson for her review.

3 **Report of Executive Secretary**

4 The Commission welcomed retired Justice John Zebrowski to his first
5 meeting as a new member of the Commission. The Commission also recognized
6 David Huebner for his many years of service to the Commission, including his
7 service as Chairperson in 2006-2007.

8 The Executive Secretary reported that he will be meeting with newly elected
9 members of the Legislature to familiarize them with the Commission's function
10 and process.

LEGISLATIVE PROGRAM

11 The Commission considered Memorandum 2008-56, reporting on the
12 Commission's 2009 legislative program. The staff supplemented the report
13 orally, reporting the following developments:

- 14 • Senator Tom Harman has expressed interest in introducing a bill
15 to implement the Commission's recommendation on *Donative*
16 *Transfer Restrictions* (Oct. 2008). It is expected that the bill will also
17 correct cross-references to provisions of the no contest clause
18 statute that were repealed by SB 1264 (Harman).
- 19 • Senator Alan Lowenthal has expressed interest in introducing a
20 bill to implement the Commission's recommendation on
21 *Mechanic's Lien Law*, 37 Cal. L. Revision Comm'n Reports 527
22 (2007). As introduced, the bill will include substantive reforms that
23 were removed from SB 1691 (Lowenthal).
- 24 • Assembly Member Jim Silva has expressed interest in introducing
25 a bill to implement the Commission's recommendation on
26 *Technical and Minor Substantive Statutory Corrections: References to*
27 *Recording Technology*, 37 Cal. L. Revision Comm'n Reports 211
28 (2007).

29 The Commission directed the staff to prepare a draft recommendation
30 explaining the need to correct cross-references as a result of changes made by
31 SB 1264 (Harman). The draft will be presented at the February 2009 meeting.

1 Memorandum 2008-61, and Memorandum 2008-62 and its First Supplement,
2 relating to nonsubstantive reorganization of the deadly weapon statutes. The
3 drafts and staff recommendations are acceptable, subject to the following
4 decisions:

5 **Distribution of Tentative Recommendation**

6 The Commission's goal is to approve a tentative recommendation at the
7 February meeting. The staff noted that in accordance with the Commission's
8 standard practices, the tentative recommendation will be posted on the
9 Commission's website and distributed to the organizations and individuals on its
10 traditional mailing list for this study. E-subscribers will be notified that the
11 tentative recommendation can be downloaded from the Commission's website.
12 The staff observed that input on which organizations should receive the tentative
13 recommendation would be useful.

14 To facilitate such input, the Commission directed the staff to provide a list for
15 the February meeting of the organizations to which it plans to distribute the
16 tentative recommendation. At the meeting, the Commission will consider
17 whether any changes should be made to that list. Suggestions are welcome at any
18 time.

19 **Proposed Penal Code § 16520. "Firearm"**

20 In the definition of "firearm" presented at pages 3-5 of Memorandum 2008-
21 58, subdivision (g) should be revised as follows:

22 (g) As used in Sections 29010 to 29145, inclusive, "firearm"
23 includes the unfinished frame or receiver of a weapon that can
24 ~~readily~~ be readily converted to the functional condition of a
25 finished frame or receiver.

26 In the Comment, the citation to the definition of "antique firearm" should be
27 revised to refer to Section 16170, instead of Section 16710.

28 **Proposed Penal Code § 16820. "Licensee"**

29 The definition of "licensee" that applies to existing Penal Code Section 12086,
30 relating to manufacturing of firearms, should be kept with the substance of
31 Section 12086, instead of being placed in the "Definitions" portion of new Part 6.
32 Subdivision (b) of proposed Penal Code Section 16820 should be converted to a
33 guidepost provision, similar to the guidepost provision in subdivision (a), which
34 directs readers to the definition of "licensee" for purposes of dealing firearms.

1 **Proposed Penal Code §§ 17111-17112. Standard definition and special**
2 **definition of “secure facility” for firearm storage by manufacturer**

3 The definition of “secure facility” for firearm storage by a manufacturer
4 (proposed Penal Code § 17111) and the special definition of “secure facility” for
5 firearm storage by a manufacturer producing fewer than 500 firearms per
6 calendar year (proposed Penal Code § 17112) should be relocated. They should
7 be placed immediately after proposed Penal Code Section 29140, which is the
8 only provision to which those definitions apply. Guidepost provisions should be
9 put where the definitions were previously located.

10 **Proposed Penal Code § 29535. Exemption from Administrative Procedure Act**

11 The staff should check whether proposed Penal Code Section 29535 ought to
12 refer to proposed Section 29515, in addition to proposed Sections 29500, 29505,
13 29510(a), 29520, and 29525. The staff should report back on this matter.

14 **Proposed Penal Code §§ 29800-29805. Person Convicted of Violent Offense**

15 The chapter on “Person Convicted of Violent Offense” (proposed Penal Code
16 §§ 29800, 29805) should be relocated. It should be placed after the chapter on
17 “Person Convicted of Specified Offense, Addicted to Narcotic, or Subject to
18 Court Order.” This will track existing law and the manner in which the law
19 developed.

20 **Proposed Penal Code § 29975. Protocol for implementation of Section 12021, to**
21 **be completed by January 1, 2005**

22 In Memorandum 2008-59, the staff requested input on whether proposed
23 Penal Code Section 29975 is obsolete, and whether to include the possibility of
24 deleting it on the Commission’s list of “Minor Clean-up Issues for Possible
25 Future Legislative Attention.” Lindsay Nichols of the Legal Community Against
26 Violence informed the Commission that it is important to retain the provision in
27 the code. Having received this input, the Commission decided not to include the
28 possibility of deleting the provision on the Commission’s list of “Minor Clean-up
29 Issues for Possible Future Legislative Attention.”

30 **Proposed Penal Code § 30100. Fingerprint requirement**

31 Proposed Penal Code Section 30100 should be relocated to “Division 1.
32 Preliminary Provisions” of “Title 4. Firearms” of new Part 6.

1 **Proposed Penal Code §§ 30150-30165. Exceptions Relating to Law Enforcement**

2 The Commission discussed whether to delete proposed Penal Code Sections
3 30150 to 30165 as “unnecessary, illogical, and potentially confusing,” as
4 recommended by the staff at pages 2-3 of Memorandum 2008-59. The
5 Commission determined that the provisions might be useful in some contexts
6 and should be included in the tentative recommendation. That approach will
7 also be most consistent with the nonsubstantive nature of this study.

8 **Proposed Penal Code § 30310. No ammunition or reloaded ammunition on**
9 **school grounds**

10 Proposed Penal Code Section 30310 is acceptable as drafted. A guidepost
11 provision should be added to the chapter on “Schools.” The Comment to the
12 guidepost provision should make clear that the provision is for informational
13 purposes only, has no substantive effect, and shall not be read to imply that
14 Section 30310 is the only provision governing ammunition on school grounds.
15 The possibility of relocating the substance of proposed Section 30310 to the
16 chapter on “Schools” should be added to the Commission’s list of “Minor Clean-
17 up Issues for Possible Future Legislative Attention.”

18 **List of “Minor Clean-up Issues for Possible Future Legislative Attention”**

19 The tentative recommendation should include a proposed uncodified
20 provision authorizing the Commission to study the issues on its list of “Minor
21 Clean-up Issues for Possible Future Legislative Attention.” The staff should
22 present a draft of this provision for the Commission to review at the February
23 meeting.

24 **Deferred Operative Date**

25 The tentative recommendation should propose a one-year deferred operative
26 date for the nonsubstantive reorganization of the deadly weapon statutes.

APPROVED AS SUBMITTED

Date

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

Chairperson

Executive Secretary