MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
JUNE 10, 2009
SACRAMENTO

A meeting of the California Law Revision Commission was held in Sacramento on June 10, 2009.

Commission:

Present: Pamela L. Hemminger, Chairperson
          Susan Duncan Lee, Vice-Chairperson
          Diane F. Boyer-Vine, Legislative Counsel
          Sidney Greathouse
          Frank Kaplan
          William E. Weinberger

Absent: Ellen Corbett, Senate Member
        Noreen Evans, Assembly Member
        Justice John Zebrowski (ret.)

Staff: Brian Hebert, Executive Secretary
       Barbara Gaal, Chief Deputy Counsel
       Catherine Bidart, Staff Counsel
       Steve Cohen, Staff Counsel
       Anne Shiau, Student Legal Assistant

Consultants: None

Other Persons:

    Mike Belote, California Judges Association
    Lindsay Nichols, Legal Community Against Violence
The Commission approved the Minutes of the April 23, 2009, Commission meeting as submitted by the staff.

ADMINISTRATIVE MATTERS

Report of Executive Secretary

The Executive Secretary reported that the Governor’s May Revision to his proposed budget does not include any changes specific to the Commission’s budget.

The Executive Secretary recognized University of California Davis Law Student Anne Shiau. Ms. Shiau is working as a summer intern for the Commission.

Executive Session

The Commission met in executive session to discuss personnel matters, pursuant to Government Code Section 11126. No reportable decisions were made.

LEGISLATIVE PROGRAM

The Commission considered Memorandum 2009-23, reporting on the status of the Commission’s 2009 legislative program.

The staff noted that some provisions of Senate Bill 105 (Harman) are being moved to Senate Bill 308 (Harman). Those provisions include a proposed section on calculating degrees of kinship and four sections implementing the

**STUDY H-403 — MARKETABLE RECORD TITLE: NOTICE OF OPTION**

The Commission considered Memorandum 2009-25 and its First Supplement, presenting a staff draft of a tentative recommendation on the expiration of record notice of an option to purchase real property.

The Commission approved the tentative recommendation for distribution, subject to two changes:

1. A request for comment on the six-month time period used in existing law will be removed.
2. A provision will be added to defer the operation of the proposed law for one year.

**STUDY H-856 — COMMON INTEREST DEVELOPMENT LAW: NONRESIDENTIAL ASSOCIATIONS**

The Commission considered Memorandum 2009-24 and its First and Second Supplements, concerning nonresidential common interest developments.

The Commission directed the staff to prepare an analysis of the provisions of the Davis-Stirling Common Interest Development Act that categorizes all provisions of the Act by function (e.g., voting, meetings, access to records, etc.), and then analyzes whether each functional category of provisions should be applicable to nonresidential CIDs. The analysis will be based on (1) the factors identified in Memorandum 2009-24 and its First Supplement, and (2) the general question of whether a nonresidential CID business relationship should be treated differently from other business relationships.

**STUDIES J-1404 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING: PART 5**

The Commission considered Memorandum 2009-26 and its First Supplement, discussing statutes made obsolete by trial court restructuring. The Commission directed the staff to prepare a draft of a tentative recommendation incorporating the draft revisions set forth in Memorandum 2009-26.
STUDY M-300 — NONSUBSTANTIVE REORGANIZATION OF
DEADLY WEAPON STATUTES

The Commission considered Memorandum 2009-27, its First and Second
Supplements, and Memorandum 2009-28, relating to nonsubstantive
reorganization of the deadly weapon statutes.

The Commission made the following decisions:

Corrected and Staff Suggestions for Improvement

The Commission approved the revisions described in (1) the list of
“Corrections and Staff Suggestions for Improvement” attached to Memorandum
2009-27, and (2) the list of “Corrections and Staff Suggestions for Improvement”
attached to Memorandum 2009-28.

Subject to further revisions as discussed below, the Commission approved the
new versions of the preliminary part, Appendix A, and Appendix B attached to
Memorandum 2009-27.

Word Count and Section Count

The staff should adjust the word count and section count in footnote 29 of the
preliminary part as necessary to reflect any revisions of the proposed legislation.

Joint Informational Hearing

The final recommendation should not say anything about a joint
informational hearing.

Bureau of Alcohol, Tobacco, and Firearms

At pages 4-5, Memorandum 2009-27 raises the issue of whether statutory
references to the “Bureau of Alcohol, Tobacco, and Firearms” should be changed
to the “Bureau of Alcohol, Tobacco, Firearms, and Explosives.” The Commission
decided to add that issue to its list of “Minor Clean-Up Issues for Possible Future
Legislative Attention” (Appendix B).

Terminology Relating to Preparation of Minutes

The terminology issue raised at page 5 of Memorandum 2009-27 (“in the
minutes” vs. “on the minutes”) should not be added to the Commission’s list of
“Minor Clean-Up Issues for Possible Future Legislative Attention.”
Target Shooting

Proposed Penal Code Sections 26545, 27135, 27735, 27910, 28100, 31765, and 31800 should read as shown at pages 6-8 of Memorandum 2009-27.

The possibility of revising these provisions to improve clarity should be added to the Commission’s list of “Minor Clean-Up Issues for Possible Future Legislative Attention.”

Proposed Penal Code Section 26210. Change of Licensee’s Address

Proposed Penal Code Section 26210 should be revised to read:

26210. (a) When a licensee under this article has a change of address, the license shall be amended to reflect the new address and a new license shall be issued pursuant to subdivision (b) of Section 26215.

(b) The licensee shall notify the licensing authority in writing within 10 days of any change in the licensee’s place of residence.

(c) If both of the following conditions are satisfied, a license to carry a concealed handgun may not be revoked solely because the licensee’s place of residence has changed to another county:

(1) The licensee has not breached any of the conditions or restrictions set forth in the license.

(2) The licensee has not become prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(d) Notwithstanding subdivision (c), if a licensee’s place of residence was the basis for issuance of a license, any license issued pursuant to Section 26150 or 26155 shall expire 90 days after the licensee moves from the county of issuance.

(e) If the license is one to carry loaded and exposed a pistol, revolver, or other firearm capable of being concealed upon the person, the license shall be revoked immediately upon a change of the licensee’s place of residence to another county.

Comment. Subdivision (a) of Section 26210 continues former Section 12050(f)(2) without substantive change.

Subdivision (b) continues former Section 12050(f)(4)(A) without substantive change.

Subdivisions (c) and (d) continue former Section 12050(f)(4)(B) without substantive change.

Subdivision (e) continues former Section 12050(f)(4)(C) without substantive change.

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

The staff should delete Item #74 from the list of “Minor Clean-Up Issues for Possible Future Legislative Attention” (i.e., the issue of “whether the language
now found in Penal Code Section 12050(f)(4)(B) should be revised to better reflect its intent’

**Statements of Legislative Intent**

Proposed Penal Code Sections 16005, 16010, 16015, 16020, and 16025 should be revised as shown at pages 11-13 of Memorandum 2009-27.

**Article 3 (commencing with Section 25500) of Chapter 2 of Division 5 of Title 4 of Proposed Part 6 of the Penal Code**

The leadline for each exemption in this article should be revised to indicate that it pertains to an exemption.

The provision restricting the effect of the article (proposed Penal Code Section 25500) should be relocated to the end of the article and renumbered accordingly.

The staff should make conforming revisions as necessary to reflect this change.

**References to Former Law as Opposed to the Proposed Law**

For purposes of the Commission’s final recommendation, proposed Penal Code Sections 30635, 30640, and 30735 should be revised as shown at pages 16-18 of Memorandum 2009-27.

However, the Legislative Counsel expressed concern about the terminology used to refer to former provisions of law (e.g., “former Section 12281” or “former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4”). Commission staff should work with the Office of Legislative Counsel and key stakeholders to resolve how to handle this matter as the Commission’s recommendation is converted into legislation.

**Supplemental Disposition Table**

The Commission discussed whether to include a supplemental disposition table in its recommendation and, if so, how.

The Commission decided to include a supplemental disposition table, as shown on pages 465-76 of the attachment to the First Supplement to Memorandum 2009-27. However, the corresponding entries in the regular disposition table should be in the format shown in boldface on pages 435-63 of the attachment to the Second Supplement to Memorandum 2009-27.

An asterisk or similar symbol should be inserted after each such entry. There should be a note at the bottom of each page, explaining that the asterisk indicates that further information is available in the supplemental disposition table.
Education Code Section 49330. “Injurious Object” Defined

The Commission’s recommendation should not include any amendment of Education Code Section 49330.

The issue of how to conform Education Code Section 49330 should be added to the Commission’s list of “Minor Clean-Up Issues for Possible Future Legislative Attention.”

Fish and Game Code Section 2006. Loaded Rifle or Shotgun

The Commission’s recommendation should include the amendment of Fish and Game Code Section 2006 that is shown on page 5 of Memorandum 2009-28.

Definition of “Assault Weapon” in Welfare and Institutions Code Sections 676 and 8104

The issue of how to define “assault weapon” for purposes of Welfare and Institutions Code Sections 676 and 8104 should be added to the Commission’s list of “Minor Clean-Up Issues for Possible Future Legislative Attention.”

Location of Conforming Revisions

The Commission should submit a single recommendation to the Legislature, which includes the conforming revisions at the end.

If the conforming revisions are later placed in a separate bill from the main proposal, there should be an uncodified provision in that bill, which makes clear that the bill is nonsubstantive (see, e.g., the provision shown at pages 6-7 of Memorandum 2009-28).

Approval of a Final Recommendation

Subject to the revisions described above, the Commission approved the material in the two tentative recommendations as its final recommendation, for printing and submission to the Legislature.