A meeting of the California Law Revision Commission was held in Los Angeles on August 2, 2013.

**Commission:**

*Present:* Xochitl Carrion, Chairperson  
Damian Capozzola, Vice-Chairperson  
Diane Boyer-Vine, Legislative Counsel  
Taras Kihiczak  
Victor King  
Susan Duncan Lee  
Crystal Miller-O’Brien  

*Absent:* Judge Patricia Cowett (ret.)  
Assembly Member Roger Dickinson  
Senator Ted Lieu  

**Staff:**  
Brian Hebert, Executive Director  
Barbara Gaal, Chief Deputy Counsel  
Kristin Burford, Staff Counsel  

**Consultants:** None  

**Other Persons:**  
John Andrusko  
John P. Chamberlain  
Suzanne V. Chamberlain  
Esther Epstein  
Jeff Kichaven  
Jayne Lee, State Bar Trusts and Estates Section, Executive Committee  
Elizabeth Moreno  
Deborah Blair Porter
Minutes of June 13, 2013, Commission Meeting

The Commission approved the Minutes of the June 13, 2013, Commission meeting as submitted by the staff.

Administrative Matters

Report of Executive Director

The Executive Director reported on the following matter:

- Stanford Law School is launching a new program, the “Stanford Law & Public Policy Initiative.” The purpose of the program is to provide faculty-supervised student-drafted policy reports to entities that would benefit from the input. Commission staff met with Professors Paul Brest and Michael Asimow to discuss the prospect of the program providing input on Commission studies.

Election of Officers

The Commission considered Memorandum 2013-29, relating to the election of Commission officers. The Commission elected Damian Capozzola as Chairperson and Victor King as Vice Chairperson, for terms commencing September 1, 2013, and ending August 31, 2014.

Legislative Program

The Commission considered Memorandum 2013-34 and its First Supplement, reporting on the Commission’s 2013 legislative program. The Commission made the following decisions:

- The Commission approved for publication all of the Comment revisions set out in the First Supplement.
• The Commission assented to the proposed amendments to Senate Bill 752 (Roth) that are discussed on pages 10-15 of the First Supplement.

STUDY H-855 — STATUTORY CLARIFICATION AND SIMPLIFICATION OF CID LAW

The Commission considered Memorandum 2013-42, presenting a revised draft of the Commission’s recommendation on Statutory Clarification and Simplification of CID Law (Further Clean-Up Legislation). The Commission approved the draft as its final recommendation.

STUDY K-402 — RELATIONSHIP BETWEEN MEDIATION CONFIDENTIALITY AND ATTORNEY MALPRACTICE AND OTHER MISCONDUCT

The Commission considered Memorandum 2013-39 and its First and Second Supplements, addressing the relationship between mediation confidentiality and attorney malpractice and other misconduct. The Commission made the following decisions:

• The Commission will not define the precise scope of its study at this time. Comments on the proper scope of the study would be helpful. The staff should begin by focusing on attorney malpractice and other attorney misconduct, which is clearly within the scope intended by the Legislature in Assembly Concurrent Resolution 98 (Wagner & Gorell), 2012 Cal. Stat. res. ch. 108. The Commission may adjust the scope of the study as the study proceeds.

• The Commission expressed skepticism about the existence of true, scientifically-controlled data on matters such as how much attorney misconduct goes unpunished due to mediation confidentiality requirements and how a particular mediation confidentiality rule affects the use of mediation, the frankness of mediation communications, and settlement rates. To avoid conveying an unwarranted aura of authority, the Commission decided to use the term “information” rather than “data” to refer to pertinent statistics, views, and anecdotes. The Commission encourages interested persons to bring such information to its attention. The Commission will not delay its study to engage in, or await the results of, a systematic data gathering effort.

• The Commission will not select an expert adviser for this study.

• The staff’s next memo will be a preliminary analysis of relevant policy interests relating to the intersection of mediation confidentiality and attorney misconduct. The memo will focus on identifying and discussing relevant considerations. The staff will
not attempt to weigh competing interests or recommend any particular approach.

STUDY L-750 — UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

The Commission considered Memorandum 2013-40, discussing changes that other jurisdictions have made to Articles 1 and 2 of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA). (Future memoranda will discuss changes made to the other articles of UAGPPJA.)

The Commission directed the staff to prepare further analysis of the following changes made to UAGPPJA in other jurisdictions:

- The change to Section 103 made in Maryland, which requires courts to make a determination that a foreign country offer substantive due process protections before treating that country as a state under certain UAGPPJA provisions (as discussed on pages 8-9 of the memorandum). The staff’s analysis of that change will discuss the extent to which the issue has been addressed in other uniform acts enacted in California.

- The change to Section 206 made in Idaho, which expands one of the factors that a court must consider when determining whether it is an appropriate forum. Specifically, Idaho modifies the factor related to abuse, neglect, and exploitation to include situations where there is a reason to suspect that abuse, neglect, or exploitation has occurred (as discussed on page 23 of the memorandum).

- The change to Section 207 made in Connecticut, which adds medical examination expenses to the list of expenses that courts are authorized to assess against a party that invoked the court’s jurisdiction through unjustifiable conduct (as discussed on page 24 of the memorandum).

- The change to Section 208 made in Ohio, which clarifies who is responsible for providing notice to persons entitled to notice in the respondent’s home state (as discussed on page 26 of the memorandum).

The analysis described above will be presented when the Commission considers public comments on the tentative recommendation on Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.
STUDY R-100 — FISH AND GAME LAW


Revisions to Proposed Division 2 (Administration)

The Commission considered Memorandum 2013-35 and made the following decisions:

- The Commission approved the draft revisions to proposed Fish and Wildlife Code Sections 50, 560, 1255, and 1310 (and their Comments), set out on pages 1, 2, and 4 of the memorandum.
- The Commission approved the draft revisions to proposed Fish and Wildlife Code Sections 1700-1895 (and their Comments), attached to the memorandum.
- The staff will not draft language to revise proposed Fish and Wildlife Code Section 575 until after the Commission receives input from the Fish and Game Commission on whether to preserve the distinction between “Article 1 Rulemaking” and all other rulemaking.

Finance

The Commission considered Memorandum 2013-36 and made the following decisions:

- The finance provisions of the proposed Fish and Wildlife Code should be organized as the staff recommended. General code-wide provisions should be consolidated in one location. Program-specific provisions should be distributed throughout the code, near the programs to which they relate.
- The Legislative Counsel’s office will inform the staff of the results of its research into the effect of Proposition 26 (2010) on any recodified fee provisions.

The Commission expressed its appreciation of William Stanger, a third-year student at U.C. Davis School of Law, for his assistance in the preparation of Memorandum 2013-36.

Law Enforcement

The Commission considered Memorandum 2013-37 and approved the attached draft. The Commission reaffirmed its prior decision that offense-specific penalty provisions should be distributed throughout the proposed Fish and
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Wildlife Code, near the provisions to which they relate. See Minutes (June 2013) p. 16.

Inter-Jurisdictional Compacts

The Commission considered Memorandum 2013-38 and approved the attached draft.

☐ APPROVED AS SUBMITTED

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

_________________________________________ Date

_________________________________________ Chairperson

_________________________________________ Executive Director