A meeting of the California Law Revision Commission was held in Sacramento on April 10, 2014.

Commission:

Present: Damian Capozzola, Chairperson  
          Victor King, Vice Chairperson  
          Diane F. Boyer-Vine, Legislative Counsel  
          Xochitl Carrion  
          Judge Patricia Cowett (Ret.)  
          Susan Duncan Lee

Absent: Assembly Member Roger Dickinson  
         Taras Kihiczak  
         Senator Ted Lieu  
         Crystal Miller-O’Brien

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

Consultants: None

Other Persons:  
               Lawrence Doyle, Conference of California Bar Associations  
               Jim Ewert, California Newspaper Publishers Association  
               Emily Jeng, King Hall Law School  
               Ron Kelly  
               Erin King, California Self Storage Association  
               Jacqueline Kinney, Senate Committee on Energy, Utilities, and Communications  
               Philip Marshall, Los Angeles District Attorney’s Office  
               Elizabeth Dietzen Olsen, Senate Office of Research  
               John S. Warnlof, California Dispute Resolution Council

– 1 –
MINUTES OF FEBRUARY 6, 2014, COMMISSION MEETING

Memorandum 2014-10 presented a draft of the Minutes of the February 6, 2014, Commission meeting. The Commission approved the Minutes, with the correction noted in the First Supplement to Memorandum 2014-10.

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director reported on the following matters:

• It would not be practicable to post digital recordings of Commission meetings on the Commission’s website. Government Code Section 11135(d)(2) requires that state agencies comply with Section 508 of the Federal Rehabilitation Act of 1973 and its implementing regulations. That act requires that a transcript be provided for audio content on a website. The Commission lacks the resources to prepare transcripts of its meetings. Commission audio files will remain available as public records on request.

• The Commission’s proposed budget was approved, on a vote-only basis, in the relevant Assembly and Senate budget subcommittees.

The Executive Director recognized Emily Jeng, a second-year law student at King Hall School of Law, who is serving the Commission as a legal extern.

Open Government Laws

The Commission considered Memorandum 2014-11, confirming that the Commission’s document dissemination practices are in compliance with the Bagley-Keene Open Meeting Act. No Commission action was required or taken.
The Commission considered Memorandum 2014-12, reporting on the Commission’s 2014 legislative program.

As described below, the Commission made several decisions relating to Senate Bill 940 (Jackson), which would implement the Commission’s recommendation on the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Editorial Revisions

The Commission approved the editorial revisions of its recommendation that are discussed at pages 2-3 of Memorandum 2014-12.

Amendment of Probate Code Section 2352

The erroneous reference to “conservatee” in Probate Code Section 2352(e)(3), which is discussed at pages 3-4 of Memorandum 2014-12, should be corrected. The corresponding Comment should be revised accordingly.

With those revisions, the Commission’s proposed amendment of Section 2352 and the corresponding Comment read as follows:

Prob. Code § 2352 (amended). Residence of ward or conservatee

SEC. ____. Section 2352 of the Probate Code is amended to read:

2352. (a) The guardian may establish the residence of the ward at any place within this state without the permission of the court. The guardian shall select the least restrictive appropriate residence that is available and necessary to meet the needs of the ward, and that is in the best interests of the ward.

(b) The conservator may establish the residence of the conservatee at any place within this state without the permission of the court. The conservator shall select the least restrictive appropriate residence, as described in Section 2352.5, that is available and necessary to meet the needs of the conservatee, and that is in the best interests of the conservatee.

(c) If permission of the court is first obtained, a guardian or conservator may establish the residence of a ward or conservatee at a place not within this state. Notice of the hearing on the petition to establish the residence of the ward or conservatee out of state, together with a copy of the petition, shall be given in the manner required by subdivision (a) of Section 1460 to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822.

(d) (1) An order under subdivision (c) relating to a ward shall require the guardian or conservator either to return the ward or
conservatee to this state, or to cause a guardianship or conservatorship proceeding or its equivalent to be commenced in the place of the new residence, when the ward or conservatee has resided in the place of new residence for a period of four months or a longer or shorter period specified in the order.

(2) An order under subdivision (c) relating to a conservatee shall require the conservator to do one of the following when the conservatee has resided in the other state for a period of four months or a longer or shorter period specified in the order:

(A) Return the conservatee to this state.

(B) Petition for transfer of the conservatorship to the other state under Article 3 (commencing with Section 2001) of Chapter 8 of Part 3 and corresponding law of the other state.

(C) Cause a conservatorship proceeding or its equivalent to be commenced in the other state.

(e)(1) The guardian or conservator shall file a notice of change of residence with the court within 30 days of the date of the change. The guardian or conservator shall include in the notice of change of residence a declaration stating that the ward’s or conservatee’s change of residence is consistent with the standard described in subdivision (b).

(2) The guardian or conservator shall mail a copy of the notice to all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822 and shall file proof of service of the notice with the court. The court may, for good cause, waive the mailing requirement pursuant to this paragraph in order to prevent harm to the conservatee or ward.

(3) If the guardian or conservator proposes to remove the ward or conservatee from his or her personal residence, except as provided by subdivision (c), the guardian or conservator shall mail a notice of his or her intention to change the residence of the ward or conservatee to all persons entitled to notice under subdivision (b) of Section 1511 and subdivision (b) of Section 1822. In the absence of an emergency, that notice shall be mailed at least 15 days before the proposed removal of the ward or conservatee from his or her personal residence. If the notice is served less than 15 days prior to the proposed removal of the ward or conservatee, the guardian or conservator shall set forth the basis for the emergency in the notice. The guardian or conservator shall file proof of service of that notice with the court.

(f) This section does not apply where the court has made an order under Section 2351 pursuant to which the conservatee retains the right to establish his or her own residence.

(g) As used in this section, “guardian” or “conservator” includes a proposed guardian or proposed conservator and “ward” or “conservatee” includes a proposed ward or proposed conservatee.

(h) This section does not apply to a person with developmental disabilities for whom the Director of the Department of
Developmental Services or a regional center, established pursuant
to Chapter 5 (commencing with Section 4620) of Division 4.5 of the
Welfare and Institutions Code, acts as the conservator.

**Comment.** Subdivision (d) of Section 2352 is amended to reflect
the enactment of the California Conservatorship Jurisdiction Act
(Section 1980 et seq.).

Subdivision (e) is amended to replace an erroneous reference to
“conservatee” with a reference to “conservator.”

**Severability Clause**

A severability clause should be added to the bill, along the following lines:

SEC. ___. If any provision of this act or the application thereof to
any person or circumstance is held invalid, the invalidity shall not
affect other provisions or applications of this act which can be
given effect without the invalid provision or application and to this
end, the provisions of this act are severable.

**STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER
INFORMATION FROM COMMUNICATION SERVICES PROVIDERS**

The Commission considered Memorandum 2014-13, discussing the search
and seizure provisions of the United States and California Constitutions. No
Commission action was required or taken.

**STUDY J-1314 — TRIAL COURT UNIFICATION: PUBLICATION OF LEGAL NOTICE**

The Commission considered Memorandum 2014-15, discussing alternative
approaches to provisions that require judicial district notice publication. The
Commission decided against recommending that the status quo be preserved.

As background for this study, Jim Ewert of the California Newspaper
Publishers Association submitted a document entitled “California Court
Directory and Fee Schedule (1984 Edition).” See First Supplement to

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

The Commission considered Memorandum 2014-14 and its First Supplement,
relating to the Uniform Mediation Act. No Commission action was required or
taken.
STUDY R-100 — FISH AND GAME LAW


☐ APPROVED AS SUBMITTED

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

__________________________ Date
Chairperson

__________________________ Executive Director