A meeting of the California Law Revision Commission was held in Sacramento on October 11, 2018.

**Commission:**

**Present:** Jane McAllister, Chairperson  
Victor King, Vice-Chairperson  
Diane F. Boyer-Vine, Legislative Counsel  
Thomas Hallinan  
Susan Duncan Lee  
Olga Mack  

**Absent:** Assembly Member Ed Chau  
Senator Richard D. Roth  
Crystal Miller-O’Brien

**Staff:**

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

**Other Persons:**

John Andersen, Executive Committee of the Trusts and Estates Section, California Lawyers Association  
Derek Chernow, Office of Senator Wieckowski  
Chris Cho, Department of Toxic Substances Control  
Charles Martel, Judicial Council of California  
Gabby Nepomuceno, Department of Toxic Substances Control  
Elizabeth Dietzen Olsen, Senate Office of Research

**CONTENTS**

- Approval of Actions Taken ................................................................. 2  
- Minutes .................................................................................................. 2  
- Administrative Matters ......................................................................... 2  
- Report of Executive Director ................................................................. 2  
- Commissioner Suggestions .................................................................... 2  
- Meeting Schedule .................................................................................. 3  
- 2018 Legislative Program ....................................................................... 3  
- Study E-200 — Recodification of Toxic Substance Statutes .................. 3
APPROVAL OF ACTIONS TAKEN

Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

MINUTES

The Commission considered Memorandum 2018-41, presenting draft Minutes for the August 17, 2018 meeting.

The Commission approved the Minutes for the August meeting without change.

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director reported that the Commission has been selected for an Independent Security Assessment by the California Department of Technology. Because of the Commission’s very small size and the fact that nearly all of its information technology services are provided by the University of California, the staff has requested a waiver. If a waiver is not provided, the Commission may need to request a budget change to provide funding for the cost of the assessment.

The Executive Director also reported that the December 7 meeting would be held in Burbank.

Commissioner Suggestions

No Commissioner suggestions were made.
Meeting Schedule

The Commission considered Memorandum 2018-42, presenting a proposed Commission meeting schedule for 2019. The Commission approved the following schedule:

<table>
<thead>
<tr>
<th>Month</th>
<th>Location</th>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 2019</td>
<td>Sacramento</td>
<td>Feb. 7 (Thur.)</td>
<td>10:00 am – 4:00 pm</td>
</tr>
<tr>
<td>April 2019</td>
<td>Sacramento</td>
<td>April 4 (Thur.)</td>
<td>10:00 am – 4:00 pm</td>
</tr>
<tr>
<td>May 2019</td>
<td>Sacramento</td>
<td>May 30 (Thur.)</td>
<td>10:00 am – 4:00 pm</td>
</tr>
<tr>
<td>July 2019</td>
<td>Burbank</td>
<td>Dec. 7 (Fri.)</td>
<td>10:00 am – 4:00 pm</td>
</tr>
<tr>
<td>September 2019</td>
<td>Sacramento</td>
<td>Sept. 26 (Thur.)</td>
<td>10:00 am – 4:00 pm</td>
</tr>
<tr>
<td>December 2019</td>
<td>Burbank</td>
<td>Dec. 5 (Fri.)</td>
<td>10:00 am – 4:00 pm</td>
</tr>
</tbody>
</table>

2018 LEGISLATIVE PROGRAM

The Commission considered Memorandum 2018-43, discussing the Commission’s 2018 Legislative Program.

The Commission directed the staff not to make any further effort to find an author for a bill to implement the Commission’s recommendation on Relationship Between Mediation Confidentiality and Attorney Malpractice and Other Misconduct (Dec. 2017).

STUDY E-200 — RECODIFICATION OF TOXIC SUBSTANCE STATUTES

The Commission considered Memorandum 2018-52, introducing a new study to recodify Chapters 6.5 and 6.8 of Division 20 of the Health and Safety Code.

The Commission made the following decisions:

- The staff is authorized to proceed with work on this topic.
- In principle, the substantive suggestions of the Independent Review Panel (“IRP”), which are beyond the scope of the Commission’s nonsubstantive study, should be included on the
Commission’s list of substantive issues for possible future study
(with attribution to the IRP).

• In this study, the Commission will use the criteria set forth on
page 5 of the memorandum for assessing whether to include a
proposed change in its recommendation.

STUDY G-400 — CALIFORNIA PUBLIC RECORDS ACT CLEAN-UP

Cumulative Draft (Memorandum 2018-53)

The Commission considered Memorandum 2018-53 and its First Supplement,
presenting and discussing a cumulative draft of material previously considered.
The Commission made the following decisions relating to that draft:

• There should be a signpost provision in the “Definitions” chapter
of the proposed recodification, flagging the different definitions of
“trade secret” used in the CPRA (compare proposed Gov’t Code §
7924.305(f) with proposed Gov’t Code § 7924.510(f)).

• The treatment of Government Code Section 6254.7(c) in the
cumulative draft (see proposed Gov’t Code §§ 7924.510, 7924.700)
is still acceptable; the legislative history of that provision does not
seem to suggest otherwise.

• When the staff prepares a complete draft of a tentative
recommendation for the Commission to consider, the staff should
review all of the proposed Comments, insert additional references
to related statutory material as appears appropriate, and bring
those suggested revisions to the Commission’s attention.

The staff will incorporate legislation enacted in 2018 in the next version of the
cumulative draft, as discussed at pages 1-3 of Memorandum 2018-53.

Chapter 5: Health Care (Memorandum 2018-54)

The Commission considered Memorandum 2018-54, presenting a draft of
Chapter 5 of Part 5 of proposed new Division 10 of Title 1 of the Government
Code. The Commission made the following decisions relating to that draft:

• The draft’s recodification of Government Code Section 6254(q)(1)
— i.e., proposed Gov’t Code § 7926.220(a) — is acceptable for
purposes of a tentative recommendation.

• The draft’s recodification of the four definitions in Government
Code Section 6254.18(b) — i.e., proposed Gov’t Code § 7926.400 —
is acceptable for purposes of a tentative recommendation.

• There is no need for a signpost provision flagging the definition of
“personal information” in proposed Government Code Section
7926.400(b).
• The previously approved signpost provision flagging the two different definitions of “public agency” used in the CPRA (proposed Gov’t Code § 7920.520) is still acceptable now that the staff has drafted recodifications of both of those definitions.

• The substance of newly enacted Government Code Section 6270.7 should be included in “Chapter 5. Health Care,” as shown in the draft.

• Subject to the above decisions, the draft of Chapter 5 of Part 5 is acceptable for purposes of a tentative recommendation.

(Commissioner Mack was not present for these decisions.)

STUDY J-1405 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING: PART 6

Obsolete “Constable” References [Study J-1405.1]

The Commission considered Memorandum 2018-46, which includes a staff draft of a recommendation on Trial Court Restructuring Clean-Up: Obsolete “Constable” References. The Commission approved that draft as a final recommendation, for publication and submission to the Legislature and the Governor.

Task Force on Trial Court Employees [Study J-1405.2]

The Commission considered Memorandum 2018-47, which includes a staff draft of a tentative recommendation on Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees. The Commission approved that draft as a tentative recommendation, to be posted to the Commission’s website and circulated widely for comment.

Marshals [Study J-1405.3]

The Commission considered Memorandum 2018-48, discussing issues relating to marshals. For purposes of a tentative recommendation, the Commission made the decisions described below.

Abolition of the Marshal’s Office in Merced County (Gov’t Code § 26638.15)

Article 1.75 (commencing with Section 26638.15) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code relates to abolition of the marshal’s office in Merced County. It should be repealed as obsolete, as shown on pages 7-8 of Memorandum 2018-48. To protect any vested rights that might still exist, the proposal to repeal this article should contain a savings clause, as previously
described and decided (see Memorandum 2018-21, p. 4; Minutes (May 2018), p. 6).

Display of Flashing Amber Warning Lights in Specified Circumstances (Veh. Code § 25254)

Vehicle Code Section 25254 should be repealed:

SEC. ____. Section 25254 of the Vehicle Code is repealed.

25254. In any county with a population of 250,000 or more persons, publicly owned vehicles operated by peace officer personnel of a marshal’s department, when actually being used in the enforcement of the orders of any court, including, but not limited to, the transportation of prisoners, may display flashing amber warning lights to the rear when such vehicles are necessarily parked upon a roadway and such parking constitutes a hazard to other motorists.

Comment. Section 25254 is repealed to reflect:
(1) Unification of the municipal and superior courts pursuant to former Article VI, Section 5(e), of the California Constitution.
(2) Elimination of the marshal’s office in every county having a population of 250,000 or more. See Gov’t Code § 69921.5 (“Except for court security services provided by the marshal in the Counties of Shasta and Trinity, the sheriff is responsible for the necessary level of court security services ....”).

Contra Costa County Sheriff-Marshal Consolidation (Gov’t Code §§ 26625-26625.9)

The Contra Costa County sheriff-marshal consolidation statute should be revised along the lines shown on pages 13-15 of Memorandum 2018-48.

(Commissioner Mack was not present for this decision.)

Los Angeles County Sheriff-Marshal Consolidation (Gov’t Code §§ 26639-26639.3)

The Los Angeles County sheriff-marshal consolidation statute should be revised along the lines shown on page 16 of Memorandum 2018-48.

(Commissioner Mack was not present for this decision.)

Shasta County Sheriff-Marshal Consolidation (Gov’t Code § 72116)

The Shasta County sheriff-marshal consolidation statute should be revised along the lines shown on pages 18-19 of Memorandum 2018-48.
Packaging of the Proposed Reforms

The staff should prepare a draft of a tentative recommendation that consists solely of the marshal-related reforms described above and the other marshal-related reforms tentatively approved by the Commission (see pages 2-5 of Memorandum 2018-48).

Court Facilities [Study J-1405]

The Commission considered Memorandum 2018-49, discussing issues relating to court facilities. For purposes of a tentative recommendation, the Commission made the decisions described below.

Flags for Courtrooms (Gov’t Code § 69504)

As previously decided, the tentative recommendation should include the following amendment of Government Code Section 69504:

§ 69504 (amended). Flags for courtrooms

SEC. ____. Section 69504 of the Government Code is amended to read:

69504. The board of supervisors of each county shall purchase and provide for the installation of the Flag of the United States and the Bear Flag of California in each superior courtroom in the county.

However, the tentative recommendation should also include a Note along the following lines:

Note. The above amendment would make clear that boards of supervisors are no longer responsible for purchasing and providing courtroom flags. The Commission is not sure where that responsibility properly rests: On the Judicial Council? On each superior court?

The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.

Regional Justice Facilities Acts (Gov’t Code §§ 26290-26299.083)

The staff should prepare a discussion draft that solicits input on whether and, if so, how, to revise the San Joaquin County Regional Justice Facility Financing Act (Gov’t Code §§ 26290-26293.4), the Orange County Regional Justice Facilities Act (Gov’t Code §§ 26295-26295.58), and the County Regional Justice Facilities Financing Act (Gov’t Code §§ 26299.000-26299.083) to reflect trial court
restructuring. The discussion draft should describe the basic options and present the text of those Acts without proposing any revisions.

San Diego Courthouse, Jail, and Related Facilities Development Agency (Gov’t Code § 6520)

Government Code Section 6520 should be repealed as obsolete, as shown on pages 18-19 of Memorandum 2018-49.

Surcharge in San Bernardino County (Gov’t Code § 70624)

Government Code Section 70624 should be amended to sunset in five years.

Transfers Between the Courthouse Construction Fund and the Criminal Justice Facilities Fund in a County of the 1st or 47th Class (Gov’t Code §76101.5)

Government Code Section 76101.5 should be amended as follows:

Gov’t Code § 76101.5 (amended). Transfers between Courthouse Construction Fund and Criminal Justice Facilities Fund in county of 1st or 47th class

SEC. ____. Section 76101.5 is amended, to read:

76101.5. Notwithstanding any other provision of this article or Article 3 (commencing with Section 76200), following a public hearing, the board of supervisors of a county of the first class or a county of the 47th class which has established both a Courthouse Construction Fund and a Criminal Justice Facilities Construction Fund pursuant to the provisions of this chapter may by resolution provide for the transfer of deposits from one fund to the other.

Comment. Section 76101.5 is amended to reflect:

(1) The enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655) and the related Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082 (see generally Sections 70301-70508).

(2) The closure of the Courthouse Construction Fund for Lassen County.

See Sections 28020 (Lassen County population is 14,960), 28068 (county with population of more than 14,600 and less than 15,000 is county of 47th class), 28085 (when new federal census is taken, county remains in old classification until reclassified by Legislature).

Courthouse Construction Fund for Los Angeles County (Gov’t Code § 76219)

The tentative recommendation should present the text of Government Code Section 76219 (without any proposed revisions), together with a Note along the following lines:
Note. In many places, Section 76219 still refers to municipal courts and municipal court districts. It appears to need revisions to reflect trial court unification. The Commission is unsure how to draft such revisions, because it is not familiar with the status of the various court construction projects in Los Angeles County and their financing.

The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.

Construction of Court Facilities in Merced County (Gov’t Code § 76223)

Government Code Section 76223 should be amended as follows:

Gov’t Code § 76223 (amended). Construction of court facilities in Merced County

SEC. ____. Section 76223 of the Government Code is amended to read:

76223. Notwithstanding any other provision of law, the following conditions pertain to the construction of court facilities in Merced County by the County of Merced for any construction pursuant to a written agreement entered into prior to January 1, 2004, between the board of supervisors and the presiding judge of the superior court:

(e) If legislation is passed and becomes effective transferring the responsibility for court facilities to the state, and the legislation permits the transfer of the bonded indebtedness or other encumbrance on court facilities together with revenue sources for payment of the bonded indebtedness or other encumbrance, the The revenue sources provided for by this section may also be transferred to the state.

Comment. Section 76223 is amended to reflect enactment of the Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082. See in particular Section 70321 (transfer of court facilities from county to Judicial Council) and Section 70325(a)(2) (county may transfer revenue sources to state, whereupon state becomes responsible for making payments on bonded indebtedness).

Lease of Unimproved Property to City of Folsom for Police Station, Courthouse, or City Hall (Gov’t Code § 14672.5)

Government Code Section 14672.5 should be amended as follows:
Gov’t Code § 14672.5 (amended). Lease of unimproved property
to City of Folsom for police station, courthouse, or city hall

SEC. _____. Section 14672.5 of the Government Code is amended
to read:

14672.5. Notwithstanding Section 14670, the Director of General
Services, with the consent of the Department of Corrections, may
lease to the City of Folsom a parcel of approximately five acres of
unimproved real property situated in the County of Sacramento
within Rancho Rio de Los Americanos for a period not to exceed 50
years for a police station, courthouse, or city hall.

Comment. Section 14672.5 is amended to reflect the enactment
of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch.
850 (see generally Sections 77000-77655) and the related Trial Court
Facilities Act, 2002 Cal. Stat. ch. 1082 (see generally Sections 70301-
70508).

Dining and Parking Facilities In or Adjacent to Court Building in County With
Population Exceeding Three Million (Gov’t Code § 68073.5)

The tentative recommendation should propose to repeal Government Code
Section 68073.5 as obsolete.

Reimbursement of Court Construction Funds in Merced County if Transfers Do Not
Occur On Time (Gov’t Code § 76225)

The tentative recommendation should propose to repeal Government Code
Section 76225 as obsolete.

STUDY L-3032.1 — REVOCABLE TRANSFER ON DEATH DEED: FOLLOW-UP STUDY

The Commission considered Memorandum 2018-44, discussing the Revocable
Transfer on Death Deed (“RTODD”). No action was required or taken.

STUDY L-4100 — NONPROBATE TRANSFERS: CREDITOR CLAIMS
AND FAMILY PROTECTIONS

The Commission considered Memorandum 2018-38, discussing the liability
rule provided in Probate Code Sections 13550 and 13551, which imposes liability
on a surviving spouse for a decedent’s debts.

The Commission decided to proceed with a reform to codify a narrow scope
of liability under that rule, as described on page 4 of the memorandum.
STUDY L-4130 — DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

The Commission considered Memorandum 2018-37, discussing the property return provisions in certain probate avoidance procedures.

The Commission made the following decisions about those provisions:

- Under existing law, when returned property has not been significantly improved by a transferee, the transferee is required to make restitution to the estate sufficient to pay off any post-transfer encumbrance on the property. The same rule should apply to property that has been significantly improved by the transferee.

- Under existing law, when returned property has not been significantly improved by a transferee, the transferee is required to make restitution to the estate for net income received by the transferee from the property. The same rule should apply to property that has been significantly improved by the transferee.

- The staff should develop and present a different statutory approach to the issue of reimbursement of a transferee and restitution to the estate, when property is returned to the estate. Rather than listing categorical reimbursement and restitution requirements, the statutes could state more general rules, grounded in the general principle underlying the existing requirements. It might also be appropriate to include the existing categorical requirements in a nonexclusive illustrative list of circumstances in which reimbursement or restitution could be required.

STUDY R-100 — FISH AND GAME LAW

The Commission considered Memorandum 2018-50, discussing the preparation of a tentative recommendation on the proposed Fish and Wildlife Code. The Commission directed the staff to distribute that very large document electronically, without producing hard copies. The memorandum presenting the draft will highlight changes from prior drafts, including the addition of 2018 legislation.

STUDY T-100 — TECHNICAL AND MINOR SUBSTANTIVE CORRECTIONS


The Commission approved the draft for circulation as a tentative recommendation.