

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

APPROVED MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
MAY 30, 2019
Sacramento

A meeting of the California Law Revision Commission was held in Sacramento on May 30, 2019.

Commission:

- Present:* Jane McAllister, Chairperson
Victor King, Vice-Chairperson
Diane F. Boyer-Vine, Legislative Counsel
Thomas Hallinan
Susan Duncan Lee
Crystal Miller-O'Brien
- Absent:* Assembly Member Ed Chau
Senator Richard D. Roth

Staff:

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

Other Persons:

- Rick Brausch, Department of Toxic Substances Control
Mason Brawley, Executive Committee of the Trusts and Estates Section, California Lawyers Association
Brett Morris, California Lawyers Association

CONTENTS

1 Approval of Actions Taken.....2
2 Minutes2
3 Administrative Matters2
4 Report of Executive Director2
5 Commissioner Suggestions 3
6 2019 Legislative Program 3
7 Study E-200 — Recodification of Toxic Substance Statutes 3
8 Study G-400 — California Public Records Act Clean-Up 3
9 Study J-1405 — Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities ..4
10 Study L-3032.1 — Revocable Transfer on Death Deed: Follow-Up Study5
11 Study L-4100 – Nonprobate Transfers: Creditor Claims and Family Protections5
12 Study T-100 — Technical And Minor Substantive Corrections6

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 2019-26, presenting draft Minutes for the April 4, 2019, meeting.

The Commission approved the Minutes without change. (*Commissioner Boyer-Vine was not present when this decision was made.*)

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director reported on the following matters:

- There have been no appointments to fill the Commission’s existing vacancies.
- Memorandum 2019-29 was removed from the agenda.
- Video live-streaming will be attempted at the Commission’s July 26, 2019, meeting. The Commission decided to hold that meeting in Sacramento. (*Commissioner Boyer-Vine was not present when this decision was made.*)
- The closed session planned for the May meeting was postponed until the July 26, 2019, meeting.

1 **Commissioner Suggestions**

2 No Commissioner suggestions were made.

3 2019 LEGISLATIVE PROGRAM

4 The Commission considered Memorandum 2019-27, discussing the
5 Commission's 2019 Legislative Program. No Commission decisions were
6 required or made.

7 STUDY E-200 — RECODIFICATION OF TOXIC SUBSTANCE STATUTES

8 **Cumulative Draft**

9 The Commission considered Memorandum 2019-33, presenting a cumulative
10 draft of the material that the Commission has considered to date.

11 The Commission decided that issues raised at the meeting by Commissioner
12 McAllister will be discussed in the next memorandum that presents a cumulative
13 draft.

14 **Chapter 3 and Chapter 4 of Part 2**

15 The Commission considered Memorandum 2019-34, presenting a draft of
16 Chapters 3 and 4 of Part 2 of the proposed new Division 45 of the Health and
17 Safety Code.

18 The Commission provisionally added the restatement of Health and Safety
19 Code Section 25358.1 to the list of substantive issues for possible future study, as
20 described in the Staff Note on page 3 of the proposed legislation.

21 The Commission provisionally approved the inclusion of the material
22 contained in the proposed legislation in a future tentative recommendation.

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

24 The Commission considered Memorandum 2019-31 and its First Supplement,
25 presenting a draft of a tentative recommendation to recodify the California
26 Public Records Act ("CPRA") in a more user-friendly manner, without
27 substantive change. Subject to the following decisions, and approval of their
28 implementation by the Chair and/or Vice-Chair, the Commission approved that
29 draft as a tentative recommendation, to be broadly circulated for comment:

- 1 • The title of Article 2 of Chapter 3 of Part 2 of proposed new
2 Division 10 of Title 1 of the Government Code should be “Social
3 Security Numbers and Related Matters.”
- 4 • In the continuation of the CPRA index, proposed Section 7930.100
5 should refer to the constitutional right of privacy (Cal. Const. art. I,
6 § 1). The preliminary part (narrative portion) of the tentative
7 recommendation should mention this matter.
- 8 • When the Commission next considers new topics and priorities,
9 the staff should raise the possibility of reviewing the codes for
10 additional provisions to include in the CPRA index.
- 11 • The operative date of the proposed recodification should be July 1,
12 2021.
- 13 • The conforming revisions for the proposed recodification will be in
14 a separate tentative recommendation.
- 15 • The staff should make the revisions listed in the First Supplement
16 to Memorandum 2019-31.

17 (*Commissioner Boyer-Vine was not present for the discussion of this study.*)

18 STUDY J-1405 — STATUTES MADE OBSOLETE BY TRIAL COURT
19 RESTRUCTURING (PART 6): COURT FACILITIES

20 The Commission considered Memorandum 2019-36, which presents and
21 analyzes the comments on the tentative recommendation on *Statutes Made*
22 *Obsolete by Trial Court Restructuring (Part 6): Court Facilities*.

23 The Commission discussed the concerns relating to the proposed amendment
24 of Government Code Section 76101.5 in the tentative recommendation. The
25 Commission decided not to include that amendment in its final recommendation.
26 The Commission will revisit the matter at a later time.

27 The Commission also discussed the Comment for the proposed amendment
28 of Government Code Section 70624 in the tentative recommendation. The
29 Commission decided to revise that Comment as follows:

30 **Comment.** Section 70624 is amended to add a sunset clause,
31 which is intended to afford time for resolution of issues relating to
32 closure of the Courthouse Construction Fund for San Bernardino
33 County.

34 (*Commissioners Hallinan and King voted against that decision.*)

35 The draft recommendation attached to Memorandum 2019-36 already
36 incorporates both of the revisions described above. The Commission approved

1 that draft as a final recommendation, for publication and submission to the
2 Governor and the Legislature.

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

4 The Commission considered Memorandum 2019-28 and its First Supplement,
5 presenting a staff draft of a tentative recommendation regarding revocable
6 transfer on death deeds (“RTODD”). Subject to the following decisions, and
7 approval of their implementation by the Chair, the Commission approved that
8 draft as a tentative recommendation, to be broadly circulated for comment:

- 9 • The proposed law should include a provision that requires a
10 beneficiary of an RTODD to provide notice to the transferor’s
11 heirs, along the lines of the language that was set out on page 3 of
12 Memorandum 2019-18. The beneficiary should also be required to
13 record an affidavit that affirms having given the required notice.
14 The 120-day periods used in the proposed amendment to Probate
15 Code Section 5652 and in existing Probate Code Section 5694
16 should begin running at the time of that affidavit’s recordation.
- 17 • Language to make proposed new Probate Code Section 5676
18 mandatory was approved as drafted.
- 19 • Proposed new Probate Code Section 5676 was revised to include
20 language drawn from proposed Probate Code Section 5678(f).
- 21 • Proposed Probate Code Section 5678 was revised to include
22 language along the following lines: “For the purposes of Section
23 11420, any reimbursement under this section shall be deemed an
24 expense of administration.” (*Commissioner Miller-O’Brien voted*
25 *against this decision.*)

26 (*Commissioner Boyer-Vine was not present for the discussion of this study.*)

27 STUDY L-4100 – NONPROBATE TRANSFERS:
28 CREDITOR CLAIMS AND FAMILY PROTECTIONS

29 The Commission considered Memorandum 2019-30, presenting a draft
30 recommendation to reform Probate Code Sections 13550 and 13551, which
31 impose liability on a surviving spouse for a decedent’s debts.

32 The Commission approved the draft as a final recommendation, for
33 publication and submission to the Governor and the Legislature.

34 (*Commissioners Boyer-Vine and Hallinan were not present when this decision was*
35 *made.*)

1 STUDY T-100 — TECHNICAL AND MINOR SUBSTANTIVE CORRECTIONS

2 The Commission considered Memorandum 2019-37, discussing public
3 comment on the possible obsolescence of provisions of the California Salmon
4 Marketing and Development Act. The Commission decided to table study of that
5 matter without further action. (*Commissioners Boyer-Vine and Hallinan were not*
6 *present when this decision was made.*)
