

MINUTES OF MEETING

of

CALIFORNIA LAW REVISION COMMISSION

SEPTEMBER 13 AND 14, 1979

LOS ANGELES

A meeting of the California Law Revision Commission was held in Los Angeles on September 13 and 14, 1979.

Law Revision Commission

Present:	Beatrice P. Lawson, Chairperson	Jean C. Love
	Judith Meisels Ashmann, Sept. 14	Warren M. Stanton
Absent:	Omer L. Rains, Senate Member	Bion M. Gregory, <u>Ex Officio</u>
	Alister McAlister, Assembly Member	George Y. Chinn
	Ernest M. Hiroshige	

Staff Members Present

John H. DeMouilly	Robert J. Murphy III
Nathaniel Sterling	Stan G. Ulrich

Consultant Present

Stefan A. Riesenfeld, Creditors' Remedies

Other Persons Present September 13

Edward Mizrahi, L.A. County District Attorney, Los Angeles  
Earl Osadchey, L.A. County District Attorney's Dept. Los Angeles  
Rene Paquin, Orange County District Attorney, Santa Ana  
Bruce Patterson, Orange County Deputy District Attorney, Santa Ana  
Bill Trueblood, San Bernardino County, Supervising Deputy District Attorney, San Bernardino  
Albert L. Wells, San Diego County District Attorney's Office, Santa Ana

ADMINISTRATIVE MATTERS

MINUTES OF MAY MEETING

The Minutes of the May 11, 1979, Meeting were approved as submitted by the staff.

ELECTION OF NEW CHAIRPERSON

Beatrice P. Lawson was unanimously elected Chairperson to fill the unexpired term of Howard R. Williams whose term on the Commission had expired. The term ends on December 31, 1979.

MEETING SCHEDULE

The following schedule for future meeting was adopted:

October 26 - 9:30 a.m. - 5:30 p.m.	San Francisco
November 30 - 10:00 a.m. - 5:00 p.m.	Los Angeles
December 1 - 9:00 a.m. - 12:00 noon	

1979 LEGISLATIVE PROGRAM

The Executive Secretary made the following report on the 1979 Legislative Program:

Adopted or Enacted

Res. Ch. 19 (ACR 8--Continues authority to study existing topics, authorizes dropping one topic, authorizes study of two new topics)  
Ch. 31 (AB 135--Ad valorem taxes when property taken for public use)  
Ch. 66 (AB 11--Wage garnishment)  
Ch. 165 (AB 212--Probate Code construction)  
Ch. 177 (AB 617--Effect on attachment of bankruptcy or assignment for benefit of creditors)  
Ch. 568 (AB 714--Confession of judgment)

Sent to Governor

AB 261--Guardianship-conservatorship revision [enacted as Ch. 726]  
AB 167--Conforming revisions to guardianship-conservatorship revision [enacted as Ch. 730]

Not Enacted

AB 145--Undertaking for costs

APPROVAL OF CONTRACTS

The Commission considered Memorandum 79-41 and took the following actions:

Contract With Professor William A. Reppy, Jr.

The Commission approved, and directed the Executive Secretary to execute on behalf of the Commission, a contract with Professor William A. Reppy, Jr., to prepare a background study on the liability of community or separate property to third-party creditors, the exemptions allowed married persons, and related matters. The compensation is to be \$5,000, with not to exceed \$1,000 in addition for travel expenses in

attending Commission meetings and legislative hearings. The contract is to be in the usual form of Law Revision Commission contracts with consultants. The study is due January 30, 1980, and the contract is to terminate June 30, 1982.

Termination of Contract With Professor Prager

The Commission approved, and directed the Executive Secretary to execute on behalf of the Commission, the necessary documents to terminate the contract (dated June 12, 1978) with Professor Susan Westerberg Prager and to relieve both parties of all obligations under the contract.

BUDGET FOR 1979-1980 AND 1980-1981 FISCAL YEARS

The Commission considered Memorandum 79-32 and took the following actions:

(1) The revisions in the budget for the current year (1979-1980) as proposed by the staff were approved.

(2) The proposed budget for 1980-1981 as submitted by the staff was approved.

(3) The document showing what reductions in programs would be made to achieve a 10-percent reduction in the proposed budget for 1980-1981 was approved as submitted by the staff.

The Commission also authorized the Executive Secretary to make minor adjustments in the proposed budget for 1980-1981 in order to conform to the actual amount of the "planning estimate" to be provided by the Department of Finance.

STUDY D-300 - ENFORCEMENT OF JUDGMENTS

SCHEDULE FOR PROJECT

The Commission considered Memorandum 79-29 and made the following determinations concerning the schedule for the enforcement of judgments project:

(1) The following goals were established for this project: The recommendation should be approved for printing at the March 1980 meeting and the printed recommendation should be available for distribution in

August 1980. If the printed recommendation is available in August 1980, interested persons and organizations will have an opportunity to study it with care prior to the 1981 legislative session.

(2) The enforcement of judgments legislation will be introduced at the 1981 session of the Legislature.

(3) This study should be given a top priority in order to meet these goals.

## CHAPTER 2. PROVISIONS OF GENERAL APPLICATION

The Commission considered the Fifth Supplement to Memorandum 79-29, which deals with much of Chapter 2 (Provisions of General Application) of the Commission's Tentative Draft of the statute relating to enforcement of judgments.

The Commission made the decisions hereinafter indicated.

### Technical Revisions

The technical revisions set out in Exhibit 4 to the Fifth Supplement to Memorandum 79-29 were approved.

#### § 702.120. Enforcement of money judgment against public entity

This section was deleted. The subject matter of the section is covered by a recommendation to be submitted to the 1980 Legislature.

#### § 702.140. Stay of enforcement by trial court without undertaking

This section was deleted and the amendment to Section 918 of the Code of Civil Procedure was approved as proposed by the staff.

#### § 702.150. Contribution among judgment debtors

This section was deleted. The new article proposed to be added to Title 11 (commencing with Section 875) of Part 2 of the Code of Civil Procedure (as set out in Exhibit 1 to the Fifth Supplement to Memorandum 79-29) was approved.

#### § 702.160. Rules for practice and procedure; forms

The following sentence was added at the end of subdivision (b):  
"Any such form prescribed by the Judicial Council is deemed to comply with this title."

The following provision was added to this section:

The Judicial Council may prescribe forms in languages other than English.

§ 702.200. Judgment enforceable upon entry [new section]

This section was not approved as proposed by the staff. Instead a provision based on the federal rules (which provide for a short delay before a judgment is enforceable) should be drafted for consideration and possible adoption by the Commission. The court can make an exception to this delay to allow immediate enforcement. The federal rules give a person a chance to pay the judgment before the judgment is enforceable.

§ 702.210. Time for enforcement of judgment

The Commission determined that a judgment should be enforceable for 20 years from the date of entry of the judgment. The judgment creditor should also be able, by noticed motion made within the 20-year period, to extend the time for enforcement of judgment by obtaining a court order granting such extension. The court should be required to grant an extension upon such motion for a period equal to the period during which enforcement of the judgment was stayed by court order or by operation of law. The Commission concluded that it would be an exceedingly rare case where the creditor would make a motion to extend the period of enforceability, but a provision for such an extension was considered necessary because of the possibility of an extended stay in connection with a reorganization under the Bankruptcy Act. In preparing a draft of the new provision, the staff should also consider the effect of the death of the judgment debtor on enforcement of the judgment. The provision relating to judgment liens should be revised to provide that the judgment lien expires 20 years after entry of the judgment unless a further filing is made after the court order is obtained to extend the period of enforceability of the judgment.

The amendment to Code of Civil Procedure Section 431.70, as set out in Exhibit 2 of the Fifth Supplement to Memorandum 79-29, was approved.

§ 702.220. Time for enforcement of installment judgment

The staff proposal was approved to add a provision to deal with the problem of how the court clerk and the levying officer know after 20 years from the date of entry of the judgment that the judgment is still enforceable. However, the provision should be revised to reflect the Commission action with respect to Section 702.210.

§ 702.230. Enforceability of judgment in action upon judgment

The policy decision reflected in this section was approved, but the language of the section should be reviewed by the staff to determine whether the section can be better worded.

§§ 702.510-702.520. Manner of service

The staff proposal to delete these sections and to substitute the material set out as Exhibit 3 of the Fifth Supplement to Memorandum 79-29 was approved. The following suggestions were made concerning the provisions set out in Exhibit 3:

(1) The Comment to Section 702.540 should explain the purpose and effect of subdivision (b) of the section.

(2) Section 702.550 should be moved to general provisions or omitted if not necessary.

§ 702.610. Instructions to levying officer

The staff revision of this section was approved.

§ 702.630. Execution of commercial paper by levying officer

This section should be revised to add a provision that the levying officer returns the instrument to the maker after holding it for 30 days. This 30-day period would give the judgment creditor time to reach the underlying obligation.

§ 702.650. Liability of levying officer

The revised section proposed by the staff was approved.

**COSTS AND INTEREST**

The Commission considered the Sixth Supplement to Memorandum 79-29 and the attached draft of provisions relating to costs and interest in

enforcement of judgments. The Commission approved the draft provisions for inclusion in the comprehensive enforcement of judgments statute, with an increase of the legal rate of interest on judgments to 10 percent. The staff should investigate whether the change in the legal rate would unintentionally affect other matters besides judgments.

SALE AND DISTRIBUTION OF PROCEEDS

The Commission considered the Eighth Supplement to Memorandum 79-29 reviewing comments received concerning the Commission's draft of the provisions relating to sale of property and distribution of proceeds following execution. The Commission made the following decisions concerning issues raised at the meeting.

§ 703.610. Sale of property levied upon. The Commission adopted the policy that collectible items should not be sold but should be collected unless the judgment creditor obtains a court order authorizing sale. This is the substance of the tentative recommendation as drafted.

§ 703.630. Notice of sale of personal property. A provision permitting interested persons to request special notice of sale should be added as set out on page 2 of the memorandum.

§ 703.680. Manner of payment. The time for a credit bidder at a sale to complete the purchase was reduced from 30 to 20 days.

§ 703.760. Sale set aside. The draft of Section 703.760, which permits the debtor to recover damages in case of irregularities in the sale, should be revised to also permit the debtor to seek to have the sale set aside within six months after the date of sale if the sale was made to the creditor.

§ 703.810. Distribution of proceeds of sale or collection. The Commission approved the basic concept of the schedule of proposed distribution of proceeds as set out on pages 5 and 6 of the memorandum. The statute should make clear that any person who has actual notice of the schedule but fails to except to the schedule is thereafter bound by the schedule. The staff should investigate the Probate Code scheme for handling exceptions referred to the court.

A provision should be added to the statute governing the order of distribution of proceeds that codifies the rule that junior lienholders are entitled to share in the proceeds after satisfaction of prior claims to the proceeds.

STUDY D-310 - HOMESTEAD EXEMPTION

The Commission considered the First Supplement to Memorandum 79-45 analyzing comments received concerning the homestead exemption. The Commission made the following determinations concerning the matters raised in the memorandum and at the meeting.

Payment of superior liens on property. The draft statute should be revised to require that superior liens on the property be paid off as part of the sale of homestead property, i.e., that the sale not be subject to liens and encumbrances. The effect of this change is to restore existing law and to make it more difficult to sell homestead property.

Treatment of liens on joint tenancy property. The principal of payment of superior liens on homestead property should extend as well to property held in joint tenancy. Whether or not all joint tenants are judgment debtors, the liens would be first satisfied out of the proceeds of sale, the remainder would be allocated among the joint tenants, and any homestead exemptions applied. This is the "bankruptcy approach" to the problem.

Burden of proof on entitlement to homestead. The staff pointed out at the meeting that legislation enacted at the current session has revised the declared homestead provisions to impose a burden of proof on the judgment debtor to show entitlement to the exemption. The Commission discussed whether the burden of proof should be upon the creditor or the debtor to show entitlement to the exemption. The Commission requested the staff to prepare language that would leave the burden of proof on the debtor as under the new legislation but that would create a presumption in favor of the debtor if the debtor has claimed a homeowner's exemption on the property.

Number of homestead exemptions. A judgment debtor should be entitled to only one homestead exemption on his or her property. The treatment of exemptions on community property of spouses the Commission deferred until receipt of the community property study.

Restraining disposition of separate property homestead. The Commission approved the concept of filing a lis pendens after commencement of a dissolution proceeding to preclude the transfer of a separate property homestead.

Amount of homestead exemption. The amount of the homestead exemption for purposes of the comprehensive statute should be whatever amount the Legislature last sets.

Definition of head of family. For purposes of the amount of the homestead exemption, the definition of "head of family" should conform to that appearing in existing law rather than being expressed in terms of lateral and lineal relatives.

Exemption of dwelling proceeds. The provision exempting proceeds of sale of a homestead for a period of six months should specify that the proceeds are to be held for purchase of another dwelling. The proceeds should be deposited in court and held subject to court order for a period of six months. The staff is to investigate whether purchase of other property can or should be limited to property in this state.

#### STUDY D-315 - ENFORCEMENT OF OBLIGATIONS AFTER DEATH

##### Enforcement of Judgment After Death of Party

The Commission considered the Sixteenth Supplement to Memorandum 79-29 and the attached staff draft of proposed revisions to the Code of Civil Procedure and the Probate Code relating to enforcement of judgments after the death of the judgment creditor or judgment debtor. The Commission approved the staff proposal to provide that an attachment lien does not terminate on the death of the defendant and the other provisions of the staff draft.

The Commission's consultant, Stefan A. Riesenfeld, raised a question concerning proposed Section 732 of the Probate Code. The proposed

section would convert an attachment lien into a judgment lien where the defendant has died and judgment is thereafter entered. However, an attachment lien attaches both to legal and equitable interests, while a judgment lien created by the recording of an abstract of judgment under Section 674 of the Code of Civil Procedure has been held to apply to legal but not equitable interests. Thus, proposed Section 732 of the Probate Code would be inconsistent with the judicial construction of Section 674 of the Code of Civil Procedure. This matter was referred back to staff for further consideration. The staff was directed to consult with Professor Riesenfeld in resolving this question.

The staff was authorized to circulate a staff draft for comment. The comments will be presented to the Commission at the time the staff draft is presented for Commission approval.

Enforcement of Liens on Real Property Held in Joint Tenancy After Death of Joint Tenant

The Commission considered Memorandum 79-38 relating to the effect of a lien on the interest of one joint tenant in joint tenancy real property when that joint tenant dies. Although the Commission had reservations about making the lien survive the death of the joint tenant whose interest is encumbered so that it would pass with the deceased joint tenant's interest to the surviving joint tenant, the Commission authorized the staff to circulate the proposal as a staff draft for the purpose of eliciting comments. The Commission requested that comments be sought in particular from law professors in the real property field. The Commission will consider the policy question posed at the time it reviews the comments submitted on the staff draft.

Professor Riesenfeld noted that California law is unclear whether a judgment lien on the interest of one cotenant survives the death of that cotenant when the deed is "to A and B, and on the death of one to the survivor." (The resolution of this question seems to turn on the question of whether or not this language creates a joint tenancy. See generally 1 A. Bowman, Ogden's Revised California Real Property Law §§ 2.7, 7.7 (Cal. Cont. Ed. Bar 1974). The staff has concluded that to

resolve the question of whether this language creates a joint tenancy is beyond the scope of the present study.)

STUDY D-320 - ENFORCEMENT OF CLAIMS AND JUDGMENTS  
AGAINST PUBLIC ENTITIES

The Commission considered Memorandum 79-34 and the attached staff draft of a tentative recommendation. The Commission approved the tentative recommendation for distribution to interested persons and organizations for review and comment.

STUDY D-400 - ASSIGNMENTS FOR BENEFIT OF CREDITORS

The Commission considered Memorandum 79-35 reviewing the comments received on the tentative recommendation relating to assignments for the benefit of creditors. The Commission determined to print the tentative recommendation as a final recommendation and submit it to the 1980 legislative session without change.

STUDY D-501 - CONFESSION OF JUDGMENT IN SUPPORT  
AND PATERNITY CASES

The Commission considered Memorandum 79-30 and the attached Tentative Recommendation Relating to Agreements for Entry of Judgment in Support and Paternity Cases, together with a letter signed by Billy L. Trueblood presenting the views of the California Family Support Council (copy follows the Minutes on this topic).

The Commission approved the tentative recommendation for distribution to interested persons and organizations for review and comment after the following changes were made:

(1) The staff proposed that Section 270 of the Penal Code not be amended as set out in the staff draft. The Commission decided not to amend Section 270 of the Penal Code.

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(2) On page 8 of the tentative recommendation, the following sentence was added to paragraph (3) and paragraph (4) of subdivision (b): "This paragraph does not apply if a criminal action has been commenced and is pending against the noncustodial parent under Section 270 of the Penal Code."

(3) A statement should be added to proposed new Sections 11476.2 and 11476.3 that advises the noncustodial parent in substance that the fact that the district attorney is involved in the negotiation does not, in and of itself, mean that a criminal action will be brought against the noncustodial parent.

(4) Existing paragraph (h) of Section 11476.2 should be revised to read in part: "I understand that if I do enter into this agreement, and after an entry of the judgment . . . ."

(5) The preliminary portion of the tentative recommendation should be revised to reflect the changes made in the proposed legislation.



JAMES M. CRAMER  
District Attorney

CHILD SUPPORT DIVISION  
District Attorney's Office  
72 W. Third St. (5th Floor)  
San Bernardino, CA 92415  
(714) 383-1217

EDWINA PETERS  
Chief of Division

ONTARIO BRANCH  
1010 West 6th Street  
Ontario, CA 91762  
(714) 988-1453

OFFICE OF THE DISTRICT ATTORNEY

September 13, 1979

John H. De Moully  
Executive Secretary  
Stanford Law Revision Commission

Re: Study D-501 Confession of Judgment in Support and  
Paternity Cases; Memorandum 79-30

Dear Mr. De Moully;

I have been asked to appear and represent the California Family Support Council with regard to the referenced proposed child support legislation in the absence of Mike Barber, who is away on military leave.

We lost one of the most beneficial tools in the child support enforcement system when Section 11476.1 of the Welfare and Institutions Code was declared unconstitutional, albeit I must admit I agree with the Appellate Court's reasons for doing so.

I have carefully read your proposed amendment to Section 11476.1 and the new sections, 11476.2 and 11476.3. I have discussed this legislation at length with members of the California Family Support Council, and particularly with those who are members of the legislative committee. On their behalf, as well as for myself, I wish to congratulate you and your committee on this cogent and timely proposal. We are in complete agreement with the amendments, as presently presented. We agree with your conclusion that the statute, as you have drafted it, has rectified any constitutional defects and that it will in fact be held constitutional. We would respectfully request, however, that Section 270 of the Penal Code not be changed.

The amendment to P.C. 270, as proposed, would present a very profound equal protection problem as to that class of children whose fathers do not meet the rebuttable presumption requirements of Civil Code Section 7004. There are many in this class, probably reaching into the millions.

In a very significant number of paternity cases, there has been no marriage, attempted marriage, no holding out to the public as the child's father, nor any of the other presumptions of 7004. The number of these cases increases daily. Parties live together, sometimes for months or years, share expenses, joint bank accounts and charge accounts, but when the father learns of the pregnancy, he is long gone. Locating

him is difficult, and serving him with a civil process is often impossible. This type of person simply evades service. On the other hand, in cases where there is a presumptive father, the child would have the benefit of a rapid locate and arrest if he evades civil action. The one-night-stands and short sexual relationships also augment the number of children deprived of governmental process by criminal prosecution, if necessary, because, there too, we find no Section 7004 presumptions.

The man who responds to a district attorney's request to come into the office and discuss the matter is generally one who feels he may possibly be the father, or at least, one who evidences some respect for the law and he, generally, will fit into one of the presumptions anyway. Serving this type of citizen is usually no problem. The man who ignores a request to discuss the problem with a district attorney is usually the one who evades service. We may know where he lives or works, but when there is assistance in evasion by collusion of relatives and friends, our hands would be tied as to getting a warrant so that a trial may be had. If we do not know where he is, he could be located by use of a P.C. 270 warrant during a routine car stop or in connection with a different arrest. After the locate and arrest a trial would then be conducted.

I can readily see your motive in proposing the P.C. 270 amendment. The Castro case evidences a fear by the court that P.C. 270 could be used by a district attorney as a coercive tactic. I am of the sincere opinion that your present wording of the proposed statute adequately dispenses with this potential problem. However, if you still feel some trepidation in this regard, I would suggest, rather than amending Section 270, that substantially, the following wording be added to the amended 11476.1 after sub-paragraph (b) (2): That the noncustodial parent be affirmatively advised that the fact that the district attorney is involved in the negotiation does not, in and of itself, mean that a criminal action will be brought.

After proposed 11476.2 (g), a new paragraph (h) be added: I understand that my refusal to sign this agreement with the district attorney's office does not, in and of itself, mean that a criminal action will be brought against me. Paragraph (h) becomes (i) and amended: I understand that if I do enter into this agreement, and after an entry of the judgment...

After proposed 11476.3 (b) (5) that a new paragraph (6) be added: I understand that the fact that I refuse to enter into this agreement does not, in and of itself, mean that a criminal action will be brought against me.

In the alternative and pursuant to our telephone conversation of September 11, 1979, your suggestion that a new Section 11476.4 might be added reciting that if there is a criminal prosecution pending, no agreement under 11476 may be had except upon the advise of counsel representing the defendant, has the complete support of the representatives of the California Family Support Council.

I wish to thank you for your time and consideration. Mr. Alfred Wells, Chief Deputy District Attorney, Child Support Division, San Diego County, Mr. Bruce Patterson, Chief Deputy District Attorney, Child Support, Orange County, a representative from the Los Angeles County District Attorney's Office, and I will be present at the meeting on Thursday evening. If we can provide further information, please do not hesitate to call on us.

Very truly yours,

JAMES M. CRAMER  
District Attorney

By Billy L. Trueblood  
Billy L. Trueblood  
Supervising Deputy District Attorney

BLT:jeb

STUDY E-200 - SPECIAL ASSESSMENT LIENS ON PROPERTY ACQUIRED  
FOR PUBLIC USE

The Commission considered Memorandum 79-28 and the First Supplement thereto analyzing comments received on the special assessment lien tentative recommendation. The Commission approved the tentative recommendation to print as a final recommendation for submission to the 1980 legislative session, with the following changes:

Code Civ. Proc. § 1265.250. Technical revisions were made in subdivision (a) as set out in the First Supplement to Memorandum 79-28.

The provision of subdivision (b) requiring that the amount of an assessment lien be paid to the lienholder from the award was revised to provide that the fair market value of the assessment lien be paid to the lienholder from the award. The special assessment bar should be alerted to this change and the original language should be restored if they note constitutional or other serious problems with the change.

Gov't Code § 53939. This provision was added to the recommendation as set out in Memorandum 79-28.

STUDY H-500 - QUIET TITLE ACTIONS

The Commission considered Memorandum 79-36 analyzing comments received on the tentative recommendation relating to quiet title actions. The Commission approved the tentative recommendation to print as a final recommendation for submission to the 1980 legislative session, with the changes set out in Memorandum 79-36. The proposed new Section 764.060 on page 5 of the memorandum should be revised to make clear that a bona fide purchaser is one who purchases in reliance on the quiet title decree without knowledge of any irregularities in the proceedings.

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STUDY H-700 - VACATION OF PUBLIC STREETS, HIGHWAYS,  
AND SERVICE EASEMENTS

The Commission considered Memorandum 79-42 analyzing comments received on the tentative recommendation relating to vacation of public streets, highways, and service easements. The Commission approved the tentative recommendation to print as a final recommendation for submission to the 1980 legislative session, with the changes indicated in the memorandum and the following additional changes:

§ 8355. Sale or exchange of excess property. Subdivision (b) of this section should be deleted or perhaps generalized.

Abandonment of state highways. The provisions relating to abandonment of state highways should be incorporated in the recommendation.

STUDY J-101 - SECURITY FOR COSTS

The Commission considered Memorandum 79-44 and the attached Recommendation Relating to Security for Costs (October 1978). The Commission determined to request its Senate member to introduce at the 1980 session a bill to effectuate this recommendation.

STUDY L-300 - PROBATE HOMESTEAD

The Commission considered Memorandum 79-43 and the attached staff draft of a tentative recommendation relating to the probate homestead. The Commission approved the tentative recommendation for distribution for comment, subject to the following changes:

Probate Code § 661. Subdivision (a) should be revised to make clear that the probate homestead may be set apart for the surviving minor children of the decedent even if they are not the children of the surviving spouse, and that the probate homestead may be set apart for the surviving minor children of the decedent and surviving spouse who live apart from the surviving spouse. A provision should be added to

subdivision (b) to make clear that the probate homestead may not be set apart for the undivided fee owner of the property.

Probate Code § 663. The first sentence of subdivision (a) should be revised to avoid having two "subject to" phrases in the same sentence. The Comment should make clear that where the homestead recipient also owns an interest in the property, the right of creditors to reach the ownership interest may be subject to the homestead exemption.

Probate Code § 664. The reference to "considerations" twice in the second sentence of subdivision (a) should be rephrased. A provision should be added that the court may limit the physical extent of the homestead right granted in property. The authority of the court to order discharge of liens out of estate funds in subdivision (b) should be qualified by a provision to the effect that the estate is subrogated to the liens so paid.

Probate Code § 665. Subdivision (a)(2) should include an express statement that the homestead right is not transferable except to the extent provided in the subdivision.

APPROVED AS SUBMITTED \_\_\_\_\_

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Executive Secretary