

CALIFORNIA LAW REVISION COMMISSION

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Miscellaneous Hearsay Exceptions: Present Sense Impressions

Request for Public Comment

A present sense impression is a statement that describes an event or condition that the speaker is perceiving, or has just perceived. For example, a bystander might say, "Look, there's a masked man running out of the bank carrying a black briefcase!"

Under the hearsay rule, such a statement is inadmissible in court unless it falls within an exception to the rule. In this tentative recommendation, the Law Revision Commission proposes that California enact a hearsay exception for a present sense impression.

The Federal Rules of Evidence and a vast majority of states have such an exception. The Evidence Code currently includes an exception for a contemporaneous statement, but not for a present sense impression. After weighing the justifications for such an exception against criticism of various aspects of the exception, the Commission tentatively recommends legislation to adopt a hearsay exception for a present sense impression.

The Commission solicits comment on the proposal.

The tentative recommendation is available from the California Law Revision Commission, 4000 Middlefield Road, Room D-1, Palo Alto, CA 94303-4739. The tentative recommendation is also available on the Commission's website at <www.clrc.ca.gov/K600.html>.

The Commission often substantially revises its recommendations as a result of public comment. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

To be most helpful, comments should be received by **December 3, 2007**. The Commission will still accept comments after that date and consider them to the extent possible. The Commission expects to approve a final recommendation on February 14, 2008. Comments must be received by then to have any impact on the Commission's recommendation.

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