

Memorandum 2006-10

**Technical and Minor Substantive Statutory Corrections
(Discussion of Issues)**

At the November meeting, the Commission considered a number of issues it could address pursuant to its statutory authority to correct technical and minor substantive defects. Gov't Code § 8298. This memorandum continues to discuss such issues. As in November, the Commission will need to decide how it wants to treat each issue for purposes of a tentative recommendation. The issues are organized as indicated below:

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CIVIL PROCEDURE

Erroneous Cross-Reference (Code Civ. Proc. § 425.11)

Code of Civil Procedure Section 425.11 contains an erroneous internal cross-reference in subdivision (c), indicated below in bold. The section reads:

- 425.11. (a) As used in this section:
- (1) "Complaint" includes a cross-complaint.
 - (2) "Plaintiff" includes a cross-complainant.
 - (3) "Defendant" includes a cross-defendant.
- (b) When a complaint is filed in an action to recover damages for personal injury or wrongful death, the defendant may at any

time request a statement setting forth the nature and amount of damages being sought. The request shall be served upon the plaintiff, who shall serve a responsive statement as to the damages within 15 days. In the event that a response is not served, the defendant, on notice to the plaintiff, may petition the court in which the action is pending to order the plaintiff to serve a responsive statement.

(c) If no request is made for **the statement referred to in subdivision (a)**, the plaintiff shall serve the statement on the defendant before a default may be taken.

(d) The statement referred to in subdivision (b) shall be served in the following manner:

(1) If a party has not appeared in the action, the statement shall be served in the same manner as a summons.

(2) If a party has appeared in the action, the statement shall be served upon the party's attorney, or upon the party if the party has appeared without an attorney, in the manner provided for service of a summons or in the manner provided by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(e) The statement referred to in subdivision (b) may be combined with the statement described in Section 425.115.

The staff recommends that **Section 425.11 be amended to correct the erroneous cross-reference in subdivision (c):**

Code Civ. Proc. § 425.11 (amended). Statement of damages

425.11. (a) As used in this section:

(1) "Complaint" includes a cross-complaint.

(2) "Plaintiff" includes a cross-complainant.

(3) "Defendant" includes a cross-defendant.

(b) When a complaint is filed in an action to recover damages for personal injury or wrongful death, the defendant may at any time request a statement setting forth the nature and amount of damages being sought. The request shall be served upon the plaintiff, who shall serve a responsive statement as to the damages within 15 days. In the event that a response is not served, the defendant, on notice to the plaintiff, may petition the court in which the action is pending to order the plaintiff to serve a responsive statement.

(c) If no request is made for the statement referred to in subdivision ~~(a)~~ **(b)**, the plaintiff shall serve the statement on the defendant before a default may be taken.

....

Comment. Subdivision (c) of Section 425.11 is amended to correct an erroneous cross-reference.

Obsolete Reference to “Docket”

The term “docket” is obsolete when used to refer to a record kept by a trial court (as contrasted with the court’s pending caseload), in a civil case. Many of these references were deleted by the Commission’s 2001 bill on *Civil Procedure: Technical Revisions*. However, the Commission did not address a few references at that time, as the Commission was continuing to study trial court unification aspects of the sections involved.

One of those sections, Code of Civil Procedure Section 396a, has since been amended to address all necessary trial court unification issues. The staff therefore recommends **deleting reference to the term “docket” from Section 396a.**

Code Civ. Proc. § 396a (amended). Transfer of actions

396a. In a case that is subject to Sections 1812.10 and 2984.4 of the Civil Code, or subdivision (b) of Section 395 of the Code of Civil Procedure, or in an action or proceeding for an unlawful detainer as defined in Section 1161 of the Code of Civil Procedure:

....

(b) If it appears from the complaint or affidavit, or otherwise, that the superior court or court location where the action or proceeding is commenced is not the proper court or court location for the trial, the court where the action or proceeding is commenced, or a judge thereof, shall, whenever that fact appears, transfer it to the proper court or court location, on its own motion, or on motion of the defendant, unless the defendant consents in writing, or in open court (consent in open court being entered in the minutes ~~or docket~~ of the court), to the keeping of the action or proceeding in the court or court location where commenced. If that consent is given, the action or proceeding may continue in the court or court location where commenced. Notwithstanding the provisions of Section 1801.1 and subdivision (f) of Section 2983.7 of the Civil Code, that consent may be given by a defendant who is represented by counsel at the time the consent is given, and if an action or proceeding is subject to subdivision (b) of Section 395 or is for an unlawful detainer, that consent may only be given by a defendant who is represented by counsel at the time the consent is given.

....

Comment. Subdivision (b) of Section 396a is amended to delete the reference to a “docket,” because courts no longer maintain a record denominated a “docket” in civil cases. Actions taken in open court are now recorded in the minutes of a superior court. See Gov’t Code § 69844 (minutes of superior court); see also *Copley Press v. Superior Court*, 6 Cal. App. 4th 106, 110, 7 Cal. Rptr. 2d 841 (1992).

Code of Civil Procedure Section 398 is another section containing obsolete “docket” references. We will address this section in a separate proposed revision relating to trial court restructuring.

Obsolete Statutes Providing for Calendar Preference

Three statutes providing for calendar preference appear to be obsolete in whole or in part.

Education Code Section 43060

Education Code Section 43060 relates to a 1987 special election in which voters in five California school districts approved special assessments on developers of local housing. The section was enacted while litigation challenging the assessments was pending, and subdivisions (a) and (b) of the section provide calendar preference for the litigation.

The section reads:

43060. (a) In the action of California Building Industry Association v. Governing Board of the Newhall School District, et al., (Los Angeles County Superior Court (c658159)) brought to determine the validity of the special election of June 2, 1987, held in the William S. Hart Union High School District, the Castaic Union School District, the Newhall School District, the Saugus Union School District, or the Sulphur Springs Elementary School District, including the hearing of the action on appeal from the decision of a lower court, all courts where the action is or may hereafter be pending shall give the action preference over all other civil actions, with respect to setting the action for hearing or trial and hearing the action, to the end that the action shall be quickly heard and determined.

(b) If the action described in subdivision (a) is appealed, at the completion of the filing of briefs, the appellant shall notify the reviewing court that the briefs have been filed. Upon receipt of notice that the briefs have been filed, the clerk of the reviewing court shall set the appeal for hearing on the first available date on the court calendar.

(c) Section 43040.5, as added by Section 1 of the act adding this section, shall become operative only if the school districts named in Section 43040.5 prevail in the litigation described in subdivision (a).

(d) No city or county shall condition the issuance of a building permit on the payment of any tax required by special election as described in subdivision (a) unless Section 43040.5 becomes operative, as provided in subdivision (c), or unless a court of competent jurisdiction so orders.

(e) No school district enumerated in Section 43040.5 shall condition the collection of, or certification of compliance with, any

developer fee or other requirement levied by the governing board of that school district under Section 53080 of the Government Code on the payment of any tax required by special election as described in subdivision (a) unless Section 43040.5 becomes operative, as provided in subdivisions (c), or unless a court of competent jurisdiction so orders, so long as the applicant for the building permit agrees in writing to pay the special tax, together with interest from the date of issuance of the building permit at a reasonable rate as determined by the court, in the event that the school district prevails in the litigation described in subdivision (a).

An appeal in the litigation was taken in 1987, and the appellate decision was long ago final. See *California Bldg. Industry Ass'n v. Governing Bd.*, 206 Cal. App. 3d 212, 253 Cal. Rptr. 497 (1988). The calendar preference provided in subdivisions (a) and (b) of the section is therefore obsolete.

Moreover, as the appellate decision invalidated the assessments, the remainder of the section also appears to be obsolete. Based on the outcome of the litigation, the section cross-referenced in subdivision (c) — Education Code Section 43040.5 — appears to be obsolete as well.

Section 43040.5 provides:

43040.5. Notwithstanding Section 43040, this chapter shall apply to any one or more of the following school districts that, no later than 90 days after this section becomes operative as to that school district or school districts, adopts a schedule that specifies the use of the proceeds of the measure approved by the voters of the district, as described in Section 43041: the William S. Hart Union High School District, the Castaic Union School District, the Newhall School District, the Saugus Union School District, and the Sulphur Springs Elementary School District.

The staff recommends **repeal of both Sections 43060 and 43040.5**. Due to the complexity of the sections, however, the staff recommends that the Commission **specifically seek comment on the proposal from all interested parties in the litigation described in subdivision (a) of Section 43060**.

Fish and Game Code Section 8610.7

Fish and Game Code Section 8610.7 is enabling legislation implementing Article VB, Section 7, of the California Constitution. Section 8610.7 allows a person who submitted a form to the Department of Fish and Game by February 4, 1991, and met other conditions, to obtain certain specified compensation.

The section further provides that any legal action challenging the validity of either Article VB, Section 7 or a related constitutional provision must be

commenced on or before April 1, 1993. Finally, the section provides that any such challenge shall be afforded calendar preference.

The section reads:

8610.7. (a) Commencing on July 1, 1993, there shall be paid to any person who submitted the form required by Section 7 of Article XB of the California Constitution within the 90-day period specified in subdivision (a) of that section, holds a permit issued pursuant to Section 5 of Article XB, who operates in the zone established pursuant to that article, who surrenders that permit to the department between July 1, 1993, and January 1, 1994, inclusive, and who agrees to permanently discontinue fishing with gill and trammel nets within the zone, a one-time compensation consisting of the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 within the zone during the years 1983 to 1987, inclusive. The department shall determine the amount of compensation to be paid by reviewing logs and landing receipts submitted to the department.

(b) Any person who did not submit the form required by Section 7 of Article XB of the California Constitution within the 90-day period specified in subdivision (a) of that section, or whose claim to compensation cannot be verified, shall not be compensated.

(c) Any person who is denied compensation by the department, as a result of the department's failure to verify landings, may appeal that decision to the commission.

(d) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(e) Notwithstanding any other provision of law, any legal action or proceeding to challenge the validity of subdivision (b) of Section 3, or of Section 7, of Article XB of the California Constitution shall be commenced on or before April 1, 1993. In all actions brought to challenge the validity of subdivision (b) of Section 3, or of Section 7, of Article XB of the California Constitution, including the hearing of any such action on appeal from the decision of a lower court, all courts where those actions are filed or pending shall give preference to those actions over all other civil actions filed or pending in that court, with respect to setting the action for trial or hearing, and in trying or hearing the matter, to the end that all such actions shall be heard and determined as expeditiously as possible.

(f) If subdivision (b) of Section 3, or Section 7, of Article XB of the California Constitution is held invalid, any compensation paid to a person pursuant to this section shall be repaid to the state. No

person shall be issued any permit or license pursuant to this article until repayment has been made.

The two constitutional provisions referenced in the section, Section 3 and Section 7 of Article XB of the California Constitution, read as follows:

SEC. 3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the Department of Fish and Game pursuant to Section 5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision (b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90-day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.

(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in the zone, for which he or she shall receive, beginning on July 1, 1993, a one time compensation which shall be based upon the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. Any person who is denied compensation by the department as a result of the department's failure to verify landings may appeal that decision to the Fish and Game Commission.

(c) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993, no compensation shall be paid under this article.

The staff believes enough time has probably passed to render the entirety of Section 8610.7 obsolete. We recommend **that the Commission propose repeal of the section and solicit comment from the Department of Fish and Game.**

Government Code Section 7910

Government Code Section 7910 states procedural requirements for the governing body of a local jurisdiction when making a fiscal determination. The section provides both a calendar preference and a time limit for any legal action challenging a determination. The section, which was enacted in 1980, provides a discrete time limit for an action challenging a determination made for the 1980-81 fiscal year.

The staff recommends **amending Section 7910 to delete the special time limit relating to a determination made for the 1980-81 fiscal year.** The staff also recommends a few stylistic revisions to the section. The amendment would read:

Gov't Code § 7910 (amended). Determinations by local jurisdictions

7910. (a) Each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of the California Constitution at a regularly scheduled meeting or noticed special meeting. Fifteen days prior to the meeting, documentation used in the determination of the appropriations limit and other necessary determinations shall be available to the public. The determinations made pursuant to this section are legislative acts.

~~Any judicial action or proceeding to attack, review, set aside, void, or annul the action of the governing body taken pursuant to this section for the 1980-81 fiscal year shall be commenced within 60 days of the effective date of the resolution or the effective date of the act which added this section to the Government Code, whichever date is later.~~

~~(b) For the 1981-82 fiscal year and each fiscal year thereafter, any~~ A judicial action or proceeding to attack, review, set aside, void, or annul the action of the governing body taken pursuant to this section shall be commenced within 45 days of the effective date of the resolution.

~~(c) All courts wherein such actions are or may be hereafter~~ A court in which an action described in subdivision (b) is pending, including any court reviewing ~~such the~~ the action on appeal from the decision of a lower court, shall give ~~such actions~~ the action preference over all other civil actions ~~therein~~, in the manner of setting the ~~same~~ action for hearing or trial and in hearing the ~~same~~ action, to the end that ~~all such actions~~ the action shall be quickly heard and determined.

Comment. The former second paragraph of Section 7910 is deleted as obsolete. The former third paragraph (now subdivision (b)) is amended to make a conforming change.

Section 7910 is also amended to make stylistic revisions.

CORPORATIONS

Consistent Use of Term “Dissociation”

Corporations Code Section 16914 makes several references to the term “dissociate” or its derivative “dissociation,” as do many other sections of the Corporations Code. However, in two instances Section 16914 instead uses the term “disassociation.”

According to several dictionaries the two terms are synonymous, and neither is a misspelling. However, most style manuals favor use of the term “dissociation.” “Dissociate” or one of its derivatives is also used uniformly throughout the Corporations Code (21 sections and 69 references), the sole exception being the two references to “disassociation” in Section 16914. Moreover, one of the two references in Section 16914 is to “wrongful disassociation under section 16602”; in Section 16602 the term “dissociation” is used.

The term “disassociate” or one of its derivatives does appear in thirteen sections of the Business and Professions Code and in one section of the Vehicle Code, compared to only one usage of the term “dissociation.”

In unrelated contexts, the term “dissociates” appears once in the Food and Agriculture Code, and the term “disassociated” appears twice in the Probate Code.

The sentence in Section 16914 in which the two references to “disassociation” appear is not a part of either the Revised Uniform Partnership Act, or the original Uniform Partnership Act. Moreover, neither the term “disassociate” nor any of its derivatives are used in either act.

To achieve consistency throughout the Corporations Code, the staff recommends that **Section 16914 be amended as indicated below to substitute the term “dissociation” for the term “disassociation.”** The staff makes no recommendation as to amendment of any of the Business and Professions Code, Vehicle Code, or Probate Code sections, but seeks guidance from the Commission on the issue.

Corp. Code § 16914 (amended). Rights and obligations following merger

16914.

(e) A partner of a domestic disappearing partnership who does not vote in favor of the merger and does not agree to become a

partner, member, shareholder, or holder of interest or equity securities of the surviving partnership or surviving other business entity shall have the right to dissociate from the partnership as of the date the merger takes effect. Within 10 days after the approval of the merger by the partners as required under this article, each domestic disappearing partnership shall send notice of the approval of the merger to each partner that has not approved the merger, accompanied by a copy of Section 16701 and a brief description of the procedure to be followed under that section if the partner wishes to dissociate from the partnership. A partner that desires to dissociate from a disappearing partnership shall send written notice of that dissociation within 30 days after the date of the notice of the approval of the merger. The disappearing partnership shall cause the partner's interest in the entity to be purchased under Section 16701. The surviving entity is bound under Section 16702 by an act of a general partner dissociated under this subdivision, and the partner is liable under Section 16703 for transactions entered into by the surviving entity after the merger takes effect. The ~~dissociation~~ dissociation of a partner in connection with a merger pursuant to the terms of this subdivision shall not be deemed a wrongful ~~dissociation~~ dissociation under Section 16602.

Comment. Subdivision (e) of Section 16914 is amended to conform with existing usage of the term "dissociation" throughout the Corporations Code.

Incorrect Cross-Reference in Uniform Partnership Act

Corporations Code Sections 16701(c) and 16701.5(b), two provisions of the Uniform Partnership Act, both contain a cross-reference that is likely incorrect.

Each section contains the phrase "damages for wrongful dissociation under subdivision (b) of Section 16602." Section 16602 reads as follows:

16602. (a) A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to paragraph (1) of Section 16601.

(b) A partner's dissociation is wrongful only if any of the following apply:

(1) It is in breach of an express provision of the partnership agreement.

(2) In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking if any of the following apply:

(A) The partner withdraws by express will, unless the withdrawal follows within 90 days after another partner's dissociation by death or otherwise under paragraphs (6) to (10), inclusive, of Section 16601 or wrongful dissociation under this subdivision.

(B) The partner is expelled by judicial determination under paragraph (5) of Section 16601.

(C) The partner is dissociated by becoming a debtor in bankruptcy.

(D) In the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.

As can be seen, subdivision (b) of Section 16602 discusses what constitutes “wrongful dissociation”; subdivision (c) indicates that a finding of wrongful dissociation gives rise to damages. The phrase “damages for wrongful dissociation under subdivision ... of Section 16602” therefore could properly refer to either subdivision (b) or subdivision (c), depending on the intended grouping of terms within the phrase. Based on the contexts in which the phrase appears in Sections 16701(c) and 16701.5(b), the staff believes the intended and more appropriate identifier is subdivision (c), rather than subdivision (b).

However, to eliminate any uncertainty or confusion, the staff recommends that **Sections 16701(c) and 16701.5(b) be amended to simply refer to Section 16602, with no subdivision identifier at all:**

Corp. Code § 16701 (amended). Buyout of dissociated partner’s interest

16701. Except as provided in Section 16701.5, all of the following shall apply:

(a) If a partner is dissociated from a partnership, the partnership shall cause the dissociated partner’s interest in the partnership to be purchased for a buyout price determined pursuant to subdivision (b).

(b) The buyout price of a dissociated partner’s interest is the amount that would have been distributable to the dissociating partner under subdivision (b) of Section 16807 if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership was wound up as of that date. Interest shall be paid from the date of dissociation to the date of payment.

(c) Damages for wrongful dissociation under ~~subdivision (b) of~~ Section 16602, and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, shall be offset against the buyout price. Interest shall be paid from the date the amount owed becomes due to the date of payment.

....

Comment. Subdivision (c) of Section 16701 is amended to correct a cross-reference.

Corp. Code § 16701.5 (amended). Dissociation within 90 days prior to dissolution

16701.5. (a) Section 16701 shall not apply to any dissociation that occurs within 90 days prior to a dissolution under Section 16801.

(b) For dissociations occurring within 90 days prior to the dissolution, both of the following shall apply:

(1) All partners who dissociated within 90 days prior to the dissolution shall be treated as partners under Section 16807.

(2) Any damages for wrongful dissociation under ~~subdivision (b)~~ of Section 16602 and all other amounts owed by the dissociated partner to the partnership, whether or not presently due, shall be taken into account in determining the amount distributable to the dissociated partner under Section 16807.

Comment. Section 16701.5 is amended to correct a cross-reference.

EVIDENCE

Counselor-Victim Privileges

In 1980, the Legislature enacted Evidence Code Sections 1035 to 1036.2, codifying an evidentiary privilege for a communication between a sexual assault victim and the victim's counselor. See 1980 Cal. Stat. ch. 917, § 1. In the enacted article heading (Article 8.5), the Legislature labeled this privilege the "Sexual Assault Victim-Counselor Privilege." At this time the Legislature also amended Evidence Code Section 912, relating generally to waiver of privilege, to add a reference to the "sexual assault victim-counselor privilege."

In 1986, the Legislature enacted Evidence Code Sections 1037 to 1037.7, codifying an evidentiary privilege for a communication between a domestic violence victim and the victim's counselor. See 1986 Cal. Stat. ch. 854, § 1. In the enacted article heading (Article 8.7), the Legislature labeled this privilege the "Domestic Violence Victim-Counselor Privilege." In 2002, the Legislature amended Evidence Code Section 912 to add a reference to the "domestic violence victim-counselor privilege." See 2002 Cal. Stat. ch. 72, § 1.

However, other statutory provisions referencing an evidentiary privilege for a communication between a professional and a client are labeled listing the professional first, then the client (e.g., lawyer-client privilege, physician-patient privilege, psychotherapist-patient privilege). To achieve consistency, in 2004 the

Legislature amended Section 912 to rename these two new privileges the “sexual assault counselor-victim privilege” and the “domestic violence counselor-victim privilege.” See 2004 Cal. Stat. ch. 405, § 1.

The two article headings, as well as two other sections, still reference the privileges as originally labeled. The staff recommends that **these headings and sections be amended accordingly:**

Heading of Article 8.5 (commencing with Section 1035) (amended)

SEC. _____. The heading of Article 8.5 (commencing with Section 1035) of Chapter 4 of Division 8 of the Evidence Code is amended to read:

Article 8.5. Sexual Assault ~~Victim-Counselor~~ Counselor-Victim Privilege

Comment. The heading “Article 8.5. Sexual Assault Victim-Counselor Privilege” is amended to conform with usage in the remainder of the code.

Heading of Article 8.7 (commencing with Section 1037) (amended)

SEC. _____. The heading of Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code is amended to read:

Article 8.7. Domestic Violence ~~Victim-Counselor~~ Counselor-Victim Privilege

Comment. The heading “Article 8.7. Domestic Violence Victim-Counselor Privilege” is amended to conform with usage in the remainder of the code.

Evid. Code § 917 (amended). Presumption of privilege

917. (a) Whenever a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of the lawyer-client, physician-patient, psychotherapist-patient, clergy-penitent, husband-wife, sexual assault ~~victim-counselor~~ counselor-victim, or domestic violence ~~victim-counselor~~ counselor-victim relationship, the communication is presumed to have been made in confidence and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential.

(b) A communication between persons in a relationship listed in subdivision (a) does not lose its privileged character for the sole reason that it is communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication.

(c) For purposes of this section, “electronic” has the same meaning provided in Section 1633.2 of the Civil Code.

Comment. Subdivision (a) of Section 917 is amended to make the references to the sexual assault counselor-victim privilege and the domestic violence counselor-victim privilege conform with usage in the remainder of the Code.

Penal Code § 11163.3 (amended). Reporting of domestic violence
11163.3.

....

(f) (1) Each organization represented on a domestic violence death review team may share with other members of the team information in its possession concerning the victim who is the subject of the review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review.

(2) Any information shared by an organization with other members of a team is confidential. This provision shall permit the disclosure to members of the team of any information deemed confidential, privileged, or prohibited from disclosure by any other statute.

(g) Written and oral information may be disclosed to a domestic violence death review team established pursuant to this section. The team may make a request in writing for the information sought and any person with information of the kind described in paragraph (2) of this subdivision may rely on the request in determining whether information may be disclosed to the team.

....

(3) The disclosure of written and oral information authorized under this subdivision shall apply notwithstanding Sections 2263, 2918, 4982, and 6068 of the Business and Professions Code, or the lawyer-client privilege protected by Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, the physician-patient privilege protected by Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, the psychotherapist-patient privilege protected by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, the sexual assault ~~victim-counselor~~ counselor-victim privilege protected by Article 8.5 (commencing with Section 1035) of Chapter 4 of Division 8 of the Evidence Code, and the domestic violence ~~victim-counselor~~ counselor-victim privilege protected by Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code.

Comment. Paragraph (3) of subdivision (g) of Section 11163.3 is amended to make the references to the sexual assault counselor-victim privilege and the domestic violence counselor-victim

privilege conform with existing statutory references to these privileges.

Subdivision (f) is amended to make a stylistic revision.

Respectfully submitted,

Steve Cohen
Staff Counsel