

Admin.

February 7, 2020

## Memorandum 2020-9

**Minutes of Meeting on January 30, 2020 (Draft)**

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The California Law Revision Commission<sup>1</sup> held a meeting on January 30, 2020. A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Brian Hebert  
Executive Director

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.



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**DRAFT** MINUTES OF MEETING  
CALIFORNIA LAW REVISION COMMISSION  
JANUARY 30, 2020  
Sacramento

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A meeting of the California Law Revision Commission was held in Sacramento on January 30, 2020.

**Commission:**

*Present:* Victor King, Chairperson  
Crystal Miller-O'Brien, Vice-Chairperson  
David A. Carrillo  
Ana Cubas  
Jane McAllister  
Richard Simpson

*Absent:* Diane Boyer-Vine, Legislative Counsel  
Assembly Member Ed Chau  
Senator Richard D. Roth  
Richard Rubin

**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, Trusts and Estates Section, California Lawyers Association

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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 2020-1, presenting draft Minutes for the November 21, 2019, meeting.

The Commission approved the Minutes with the following change:

On page 1, line 11, insert the middle initial “A.” in Commissioner Carrillo’s name.

ADMINISTRATIVE MATTERS

**Report of Executive Director**

The Executive Director reported that the Committee on Revision of the Penal Code held its first meeting on January 24, 2020. Its membership consists of Michael Romano, (Chair), Hon. John Burton, Hon. Peter Espinoza, Assembly Member Sydney Kamlager, Hon. Carlos Moreno, L. Song Richardson, and Senator Nancy Skinner.

**Commissioner Suggestions**

No Commissioner suggestions were made.

1 **Open Government Laws**

2 The Commission considered Memorandum 2020-2, summarizing “open  
3 government” laws applicable to the Commission. No Commission action was  
4 required or taken.

5 2020 LEGISLATIVE PROGRAM

6 The Commission considered Memorandum 2020-3 and its First Supplement,  
7 discussing the Commission’s 2020 Legislative Program.

8 The Commission made the following decisions:

- 9 • The pre-print recommendations that would be implemented by  
10 legislation in 2020 should be revised to conform to the text of the  
11 bill drafts that were prepared for the introduction of that  
12 legislation.
- 13 • A subordination clause should be added to legislation that would  
14 implement the Commission’s recommendations on trial court  
15 restructuring.

16 STUDY E-200 — RECODIFICATION OF TOXIC SUBSTANCE STATUTES

17 The Commission considered Memorandum 2020-8 and its First Supplement,  
18 presenting draft tentative recommendations for the recodification of Chapter 6.8  
19 of Division 20 of the Health and Safety Code and the associated conforming  
20 revisions.

21 The Commission approved the drafts, without change, as tentative  
22 recommendations to be circulated for public comment.

23 STUDY EM-560 — EMINENT DOMAIN: PRE-CONDEMNATION ACTIVITIES

24 The Commission considered Memorandum 2020-7, relating to the statutory  
25 procedure for compensating a property owner for pre-condemnation harm  
26 pursuant to Code of Civil Procedure Section 1245.060.

27 The Commission directed the staff to prepare a draft of a revised tentative  
28 recommendation, based on the decisions that have previously been made in this  
29 study and the following decisions that were made at the January meeting:

- 30 • The proposed law should not expressly address compensation for  
31 prospective loss.
- 32 • Existing law should be revised to expressly permit a property  
33 owner to seek compensation for precondemnation harm in a

1 subsequent condemnation action. Such a claim should be made in  
2 the property owner’s answer, rather than in a cross-complaint.

- 3 • Existing law should be revised to make clear that “Klopping  
4 damages” sought in a condemnation action should be claimed in  
5 the property owner’s answer, rather than in a cross-complaint.

6 STUDY J-1405.5 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING:  
7 CONSOLIDATION AND COORDINATION OF CIVIL CASES

8 The Commission considered Memorandum 2020-6, which examines whether  
9 the statutes that govern consolidation and coordination of civil cases require  
10 further revisions to reflect trial court unification. The Commission decided not to  
11 do any more work on the topic at this time, because such work does not appear  
12 necessary. The Commission might reopen this matter if, at any time, it receives  
13 input revealing a problem with the consolidation and/or coordination statutes  
14 that relates to trial court restructuring.

15 STUDY L-3032.5 — STOCK COOPERATIVES AND  
16 UNIFORM TOD SECURITY REGISTRATION ACT

17 The Commission considered Memorandum 2020-5, introducing a study of the  
18 use of the Uniform TOD Security Registration Act (Probate Code Sections 5500-  
19 5512) to transfer an owner’s interest in a stock cooperative on death, outside of  
20 probate. The Commission approved the approach to the study that is described  
21 in the memorandum.

22 STUDY L-4130.3 — DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

23 The Commission considered Memorandum 2020-4 and its First Supplement,  
24 discussing public comment on the Tentative Recommendation on *Disposition of*  
25 *Estate Without Administration: Liability* (July 2019).

26 The Commission directed the staff to prepare a draft recommendation based  
27 on the tentative recommendation, with the following changes:

- 28 • Throughout the proposed law, the term “transferee” will be used  
29 in place of “designated successor.”
- 30 • Proposed Probate Code Sections 13109.5(b)(2) and 13204.5(b)(2)  
31 will be deleted.

- 1 • The rules on “net income” in Probate Code Sections 13112(a)(2)  
2 and 13207(a)(2) will be replaced with language along the lines of  
3 proposed Probate Code Sections 13112(b)(2) and 13207(b)(2).
- 4 • The proposed law on a transferee’s liability for the unsecured  
5 debts of a deceased transferor will be expanded to include liability  
6 for funeral expenses, expenses of last illness, and wage claims.
- 7 • Probate Code Sections 13111(b) and 13206(b) will be revised to  
8 provide that a treble damage award should first be used to pay the  
9 estate’s expenses in bringing an action under those sections, with  
10 the remainder awarded to the person with a superior right claim.
- 11 • In the proposed law, Probate Code Sections 13110.5, 13111,  
12 13205.5, and 13206 will be revised to expressly state that property  
13 returned to the estate under those provisions should be included  
14 in the total value of the estate for the purposes of calculating  
15 administration fees that depend on that value. The memorandum  
16 that presents the draft recommendation will specifically call the  
17 Commission’s attention to those revisions.
- 18 • Probate Code Sections 13111(d) and 13206(e) will be revised to  
19 delete their second sentences.
- 20 • Proposed Sections 13112 and 13207 will be renumbered to avoid  
21 reusing the numbers of sections that are proposed for repeal.

<input type="checkbox"/> APPROVED AS SUBMITTED	_____	Date
<input type="checkbox"/> APPROVED AS CORRECTED (for corrections, see Minutes of next meeting)	_____	Chairperson
	_____	Executive Director