

Memorandum 89-65

Subject: Study F-1000 - Family Relations Law (Scope of Study)

At the last meeting, the Commission discussed the scope of Family Relations Law Study and directed the staff to seek more information concerning the intent of the Legislature in passing Assembly Concurrent Resolution 30 which directs the study. (A copy of the ACR 30 is attached as Exhibit 1; attached as Exhibit 2 is the Assembly Judiciary Committee analysis of ACR 30.)

In order to assist the Commission, we have invited several knowledgeable people to the October meeting to discuss the scope of the study. Deborah DeBow, Counsel to the Assembly Committee on Judiciary, who worked on ACR 30, intends to be at the Commission meeting on Thursday, October 12. We have also invited several other persons from Assembly Member Jackie Speier's office, the Attorney General's office, and others involved with the Child Victim Witness Judicial Advisory Committee, which recommended creation of a "Family Relations Code consolidating all child, family and human relations law."

Related Developments

Many other parties are involved in trying to accomplish other goals set out in the report of the Child Victim Witness Judicial Advisory Committee. For instance:

- Senate Bill 218 (Petris) sets up a 3-year pilot program in three counties to "implement and evaluate the recommendations of the Child Victim Witness Judicial Advisory Committee" relating to investigative techniques in child victim cases and child advocacy programs for child victim witnesses. SB 218 has been sent to the Governor.
- Senate Bill 220 (Petris) requires each county to establish a written protocol to assist the court in determining whether to make a minor either a ward or dependent of the court. SB 220 has been sent to the Governor.
- Senate Bill 221 (Petris) relates to protective orders restraining a person in a minor's household from abusing the

minor and authorizes the court to exclude such person from the household. SB 221 has been sent to the Governor.

- Senate Bill 273 (Lockyer) provides an exception to the hearsay rule, making statements of a child in a preliminary hearing admissible in a dependency proceeding. This bill became 1989 Cal. Stat. ch. 322.

- Senate Resolution 7 (Lockyer) sets up a Family Relations Court Task Force which is examining the feasibility of establishing a family relations court as a division of the superior court, coequal with the civil and criminal courts.

Thus it can be seen that the substantive revision is proceeding apace. This law, together with other appropriate statutes, will provide the material for the Commission's preparation of a new Family Relations Act or Code.

Mailing List

The Commission also directed the staff to assemble a list of experts and interested persons who would be willing interesting in participating and assisting the Commission in this study. At this point we have our existing family law list composed of people who have indicated that they are willing to review materials and submit comments on Commission proposals in this area. In addition, we have the names that were suggested at the last meeting. We have received a list of 33 names of people who were interested in ACR 30 from Deborah DeBow, Counsel to the Assembly Committee on Judiciary. Finally, we have additional names suggested by the persons with whom we discussed the scope of the study. Of course, we will add names to the mailing list as we receive them.

Respectfully submitted,

Stan G. Ulrich
Staff Counsel

Assembly Concurrent Resolution No. 30

RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 30—Relative to family relations.

[Filed with Secretary of State July 7, 1989.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 30, Speier. Law Revision Commission: Family Relations Code.

Under existing law, the California Law Revision Commission is required to study any topic assigned to it by the Legislature by concurrent resolution.

This measure would require the California Law Revision Commission to conduct a careful review of all statutes relating to the adjudication of child and family civil proceedings, with specified exceptions, and make recommendations to the Legislature regarding the establishment of a Family Relations Code, as specified.

WHEREAS, California statutory law is divided into numerous codes that deal with family relations matters, including the Civil Code, Welfare and Institutions Code, Probate Code, Health and Safety Code, Code of Civil Procedure, and Evidence Code; and

WHEREAS, California statutes relating to children and families have increased substantially over the past several years, but there has been no comprehensive review of state law as it relates to children and families; and

WHEREAS, Cases involving family relations matters are frequently adjudicated in multiple legal forums using numerous codes, and these codes are often inconsistent or contradictory in the application of evidentiary and procedural rules to the matter at hand involving a child victim; and

WHEREAS, California's laws regarding children and families are often contradictory and inappropriate, and as applied by a variety of court procedures and jurisdictions, state law causes unnecessary hardships to children and their families; and

WHEREAS, The California Child Victim Witness Judicial Advisory Committee has recommended that the Legislature conduct a careful review of all statutes relating to the civil adjudication of child and family relations matters and that legislation be enacted to establish a Family Relations Code, consolidating all civil child and family relations law; and

WHEREAS, A Family Relations Code would provide the legal framework for a Family Relations Division of the Superior Court, would allow for the legal integration of related actions involving one child or his or her family, and would streamline and improve judicial

practices and procedures as they pertain to child victim witnesses as well as other child and family civil proceedings; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That pursuant to Section 8293 of the Government Code, the California Law Revision Commission shall conduct a review of all statutes relating to the adjudication of child and family civil proceedings, excluding proceedings initiated under Section 602 of the Welfare and Institutions Code, and make recommendations to the Legislature regarding the establishment of a Family Relations Code; and be it further

Resolved, That this review should highlight evidentiary and procedural provisions, including, in particular, as they relate to child victims; should include recommendations to amend statutes to ensure that appropriate information is exchanged among courts and investigative and other agencies serving the courts; and should include recommendations to consolidate those code sections which are appropriate to consolidate, to reduce or eliminate redundancies where appropriate, to make various code sections and procedures consistent with each other where appropriate, to improve cross-references and the integration of related actions where appropriate, and to conform code sections where lack of conformity creates inappropriate inconsistencies; and be it further

Resolved, That the California Law Revision Commission shall commence this project giving it the same priority as the Administrative Law project and shall thereafter deliver its report to the Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Law Revision Commission.

ACR 30

Date of Hearing: April 12, 1989

ASSEMBLY COMMITTEE ON JUDICIARY
PHILLIP ISENBERG, Chair

ACR 30 (Speier) - As Amended: April 5, 1989

SUBJECT: This resolution requires the California Law Revision Commission (CLRC) to conduct a review of child and family civil proceedings and to make recommendations to the Legislature regarding the establishment of a Family Relations Code.

BACKGROUND

Facts. Statutes impacting legal proceedings regarding children and families are in various California Codes, for example:

- 1) Civil Code: Family Law Act, Uniform Parentage Act, Emancipation of Minors Act, Uniform Civil Liability For Support Act, Interstate Compact on the Placement of Children, adoption law, termination of parental rights.
- 2) Probate Code: Conservatorship, guardianship.
- 3) Welfare and Institutions Code: Juvenile Court Law - Dependency, district attorney child support enforcement.
- 4) Evidence Code: Blood tests to determine paternity law, privileges.
- 5) Code of Civil Procedure: Revised Uniform Enforcement of Support Act, Family Conciliation Court Law.

History. The California Child Victim Witness Judicial Advisory Committee recommended in its October 1988 report that placement of the various statutory provisions into a Family Relations Code would provide better legal integration of related actions involving a child and the family.

DIGEST

Existing law requires the CLRC to study any topic assigned to it by the Legislature by concurrent resolution. Current ongoing major studies include the revision of the Probate Code, with an anticipated completion date of early 1990, and the revision of the Administrative Law Act. The CLRC is currently authorized to also study: Probate Code; family law; rights and disabilities of minors and incompetent persons; child custody, adoption, guardianship, and related matters; evidence.

This bill requires the CLRC to conduct a review of all statutes relating to child and family civil proceedings, excluding proceedings initiated under 602 of the Welfare and Institutions Code, and to make recommendations to the

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legislature regarding the establishment of a Family Relations Code. This review is to have the same priority as the current CLRC project on Administrative Law. The review is:

- 1) To highlight evidentiary and procedural provisions.
- 2) To include recommendations to amend statutes to ensure that appropriate information is exchanged among courts and investigative and other agencies serving the courts.
- 3) To include recommendations for consolidation, consistency, and conformity, to eliminate redundancies, and to improve cross-references and the integration of related actions where appropriate.

FISCAL EFFECT

The CLRC will incur staff and consultant costs in order to complete the project required by this bill.

COMMENTS

- 1) Sponsor's statement. The California Child Victim Witness Judicial Advisory Committee stated in its October 1988 report that:

A Family Relations Code would provide the legal framework for a Family Relations Division of the Superior Court. This framework would allow for the legal integration of related actions involving one child or his or her family and achieve the legislative objective of this Committee of streamlining and improving judicial practices and procedures as they pertain to child victim witnesses as well as other child and family oriented legal matters.

- 2) One of the Committee's major recommendations is to create a family relations division of the Superior Court, coequal with the civil and criminal divisions. The Family Relations Code is to provide the legal framework for a court's family relations division.

- 3) Author's Statement. According to the author:

It is not my intent in this resolution to advocate or accomplish any substantive changes in the body of laws subject to inclusion in this consolidated code. There may exist good reasons not to include certain statutes or subjects in this code, and I am sensitive to those concerns as well. The central intent of the resolution is to achieve a family code that will be consistent and effective, and that will eliminate present inconsistencies and contradictions in related but separate actions involving children and families.

SUPPORT

Unknown

D. DeBow
445-4560
ajud

OPPOSITION

Unknown