



CALIFORNIA LEGISLATIVE HISTORY RESEARCH GUIDE

Prepared for the Dependency and Criminal MCLE Seminar on November 19, 2014¹

■ **WHY RESEARCH LEGISLATIVE HISTORY FOR APPELLATE BRIEFING?**

Researching the legislative history of a statute can provide the legislative intent, which can be used to support your argument as to how a statute should be interpreted in your case. Legislative committee reports provide the most detailed information regarding intent, but are not readily available. This guide will provide you with a variety of sources. But, to obtain these you must find the bill that led to its creation and the associated committees that reviewed the bill.

■ **DEPENDENCY LAW**

The following are two examples of legislative intent that could be used in a dependency appellate brief.

1. Comprehensive Changes to California's Dependency Laws

In 1987, pursuant to Senate Bill 1195 (Stats. 1986, Ch. 1122), a task force was created to examine then-existing statutes and recommend changes necessary to protect children at risk of abuse and neglect. The Senate Select Committee on Children and Youth documented both the task force's recommendations and the intent of three new laws. (Sen. Select Comm. on Children & Youth, SB 1195 Task Force Rep. on Child Abuse Reporting Laws, Juvenile Court Dependency Statutes, and Child Welfare Services (Jan. 1988).)

- Online: www.ncjrs.gov/pdffiles1/Digitization/113845NCJRS.pdf
- Library of Congress: KFC1121.5 .A25 1988
- Dewey Decimal Class: 344.794/03276; 347.94043276
- Not currently located in Westlaw or Lexis online.
- Significant cases citing to this history:
 - *In re Heather B.* (1992) 9 Cal.App.4th 535, 540-543, 546, 557-558.
 - *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 247, 250, 258-259, 263.
 - *In re Marilyn H.* (1993) 5 Cal.4th 295, 303, 304, 307.
 - *In re Zacharia D.* (1993) 6 Cal.4th 435, 446, 447-448, 453.
 - *In re Autumn H.* (1994) 27 Cal.App.4th 567, 573-574.

¹ *The materials in this guide are for educational purposes only. We do not endorse any specific computer-assisted legal research company.*

2. Sibling Exception to Adoption

In 1999, the Senate Committee on the Judiciary analyzed Assembly Bill 1987. In the third reading, the intent of this bill was clearly stated: “this bill is intended to ‘further improve the treatment of and provide greater protections for sibling groups in the juvenile dependency system.’” (Sen. Com. on Judiciary, Off. Of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1987 (1999-2000 Reg. sess.) as amended May 16, 2000, par. 4.)

- Online: http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_1051-1100/sb_1099_cfa_20140523_172547_sen_floor.html
- LexisAdvance: 1999 Legis. Bill Hist. CA A.B. 1987
- WestlawNext: California Bill Analysis, A.B. 1987 Assem., 5/16/2000
- *In re Valerie A.* (2007) 152 Cal.App.4th 987, 1003.

■ HOW DO I FIND THE LEGISLATIVE HISTORY OF A STATUTE?

This guide provides some general steps to take during your research.²

1. Look up your statute (in an annotated code book if using bound copy).
 - In the annotated notes find the year and chapter number of the original statute as well as any amendments.
 - Read all versions of the statute.
 - Find the original statute. Note that this may be under a different statute number and code section.
 - Depending on which source you are using, this information may be found in the table of laws enacted, summary digest, references and annotations (“Refs and Annos.”), history, hierarchy, or sources section.
2. Make note of the bill history.
3. Read all versions of the bill text.
4. Review the Assembly Journal
5. Read Committee Reports.
6. Investigate outside resources (see “Sources of Legislative Intent” below).

² For more detailed information, please see USD’s California Legislative History Research Guide: www.sandiego.edu/law/documents/library/research-guides/GS03.pdf.

■ CAN I FIND LEGISLATIVE HISTORY ONLINE, OTHER THAN THROUGH MY COMPUTER-BASED RESEARCH PROGRAM?

California State Archives with the Secretary of State

- Although documents must be requested in hard copy format, some research can be done online at: <http://www.sos.ca.gov/archives/collections/>. See more information on accessing the Archives in “Sources of Legislative Intent” section below.

California State Assembly Chief Clerk Legislative Archives

Statutes from 1850 to 2008, Indexes from 1881 to 2007, and Journals from 1849 to 2009 can be downloaded in PDF format from the California State Assembly Web site.³ These are electronic or digitized versions of the original bound copies found in a law library. Use the main Web site to identify the volume in which the chapter number of your statute is located. Then locate archives by using the parent directory for the clerk’s archive.⁴

For example, Penal Code section 273a was enacted in 1905. An annotated source will indicate the original act in the Statutes of 1905, chapter 568, page 759, section 5. Look for it in the Statues of California, with Amendments to the Codes, passed at the 36th Session of the California Legislature in 1905.⁵ The following appears on page 759:

SEC. 5. A new section is hereby added to said code to be numbered two hundred and seventy-three *a*, and to read as follows:

273a. Any person who willfully causes or permits any child to suffer, or who inflicts thereon unjustifiable physical pain or mental suffering, and whoever, having the care or custody of any child, causes or permits the life or limb of such child to be endangered, or the health of such child to be injured, and any person who willfully causes or permits such child to be placed in such situation that its life or limb may be endangered, or its health likely to be injured, is guilty of a misdemeanor.

Unjustifiable punishment causing child to suffer.

Note that the naming convention of these PDFs may be confusing (e.g. the cross-referencing tables for the Statutes of 1965 are located in the document labeled “65vol1_Measures.pdf.”).

³ <http://192.234.213.35/clerkarchive/>

⁴ <http://192.234.213.35/clerkarchive/archive/Statutes/>

⁵ <http://192.234.213.35/clerkarchive/archive/Statutes/1905/1905.PDF>.

Google Books

The Google Books Library Project is working toward making as many digitized versions of books as possible available online.⁶ This collection is expanding every day. Some of California's original annotated codes, statutes in past form, and Journals of the Senate and Assembly that are not presently available on LexisAdvance or WestlawNext are accessible through this website.⁷

The following are some resources we have found on Google Books.

- Deering, James. Penal code of the State of California, Adopted February 14, 1872, with Amendments Up to and Including Those of the Thirty-eighth Session of the Legislature, 1909, with Citation Digest Up to and Including Volume 154 California Reports, and Volume 8 Appellate Reports. (Provided by the New York City Library). <https://play.google.com/books/reader?printsec=frontcover&output=reader&id=3Bg9AAAAYAAJ&pg=GBS.PR3>
- Deering, James. Supplement to the Codes of California Embracing the General Statutes, The Amendments to the Codes and Special Statutes of General Interest Enacted at the Legislative Sessions of 1891 and 1893, with Notes of Decisions of the Supreme Court of California from Volumes 65 to 96, Inclusive of California Reports. (1893) <https://play.google.com/books/reader?id=3Ns3AAAAIAAJ&printsec=frontcover&output=reader&hl=en&pg=GBS.PP7>
- Kerr, James. The codes of California, as amended and in force at the close of the forty-third session of the Legislature, 1919; Vol. 4, Penal Code, with Appendix of Forms. (1921) (Provided by the Stanford Law Library). <https://play.google.com/books/reader?printsec=frontcover&output=reader&id=vMo3AAAAIAAJ&pg=GBS.PP7>
- Appendix to the Journals of the Senate and Assembly of the Twenty-second Session of the Legislature of the State of California, Vol. 4. (1878) (Provided by the University of Chicago Libraries). <https://play.google.com/books/reader?printsec=frontcover&output=reader&id=4LCPAzBxe3oC&pg=GBS.PR1>
- Statutes of California, passed at the First Session of the Legislature, with an Appendix and Index. (Provided by the Stanford Law Library). (1850) <https://play.google.com/books/reader?printsec=frontcover&output=reader&id=8qI3AAAAIAAJ&pg=GBS.PP7>

⁶ Google Books Library Project, an enhanced card catalog of the world's books: <https://www.google.com/googlebooks/library/>

⁷ Books are accessible via Google play at: <https://play.google.com/store/books>

National Criminal Justice Reference Service (NCJRS)

Similarly, the National Criminal Justice Reference Service (NCJRS) created an online public-access library⁸ with criminal justice, juvenile justice, and drug issue information. This Web site contains digitized versions of over 215,000 documents from their criminal justice special collections. Materials are being added to the NCJRS collection daily—approximately 300 new documents per month.⁹

■ **SOURCES OF LEGISLATIVE INTENT & WHERE TO FIND THEM**

- **“Annual review of selected legislation”** From McGeorge Law Review
 - Formerly Pacific Law Journal (1970-1997)
 - Annual reports since 1970
 - Available through HeinOnline (for a fee or use San Diego Law Library or local law school library to access for free)
- **Assembly Journal & Senate Journal Indexes**
 - Especially useful for pre-1970 bills
 - Online: <http://192.234.213.35/clerkarchive>
- **Assembly Office of Research Bill File Analysis**
 - This office prepares reports for both Assembly and Senate bills.
 - Analysis includes: proposed fiscal effect, short digest, summary of comments by committee consultants, assessment of effect of bill.
- **CEB Review of Selected Code Legislation**
 - Use for bills between 1954-1969
- **Periodical indexes:**
 - LegalTrac (1980-present)
 - Index to Legal Periodicals (Pre-1980)
- **California State Archives with the Secretary of State**
 - This is the only repository for legislative committee records
 - Web site: <http://www.sos.ca.gov/archives/collections/>
 - Email: archivesweb@ss.ca.gov
 - Reference Desk: (916) 653-2246
 - No charge for research. Many attorneys call in requests.

⁸ <https://www.ncjrs.gov/library.html>

⁹ <https://www.ncjrs.gov/walimal.aspx?i=0>

- Use the Minerva Online Catalog to find summary descriptions of the documents maintained by the California State Archives.
<http://www.sos.ca.gov/archives/minerva/>
- To request documents:
 1. Provide the bill number and date or chapter number and legislative session year (which begins with odd numbered year, e.g. 2001-2002).
 2. The state archives staff can research your bill and locate any records they have regarding the bill (committee meetings, analyses, etc.) including documents vetoed files when applicable.
 3. It usually takes them about 3-5 days to get everything together.
 4. If you are in Sacramento, they can hold documents for you to view. Otherwise, copies are \$0.25/page. Scans (photos only) are \$10.00 per scan, plus \$5.00 per copy to a CD or DVD. There are no shipping fees.
- Resources include:
 - **Agency Legislative Records**
 - State agencies may have records including analyses, policy memoranda, and position statements.
 - **Bill drafts**
 - What was removed or added is a good indicator of intent.
 - Compare law at time new bill was chaptered to when new law enacted.
 - Also may be accessible via computer-based research program
 - **Caucus Bill Files** (1973 to current).
 - Party caucus analysis reflects parties' views.
 - Also available at: senate.ca.gov/officescaucuses
 - **Committee Records**
 - Most detailed analysis
 - Most are only accessible through Secretary of State; however, some have been digitized and are available online. (See NCJRS website, for example.)
 - **Committee Bill & Hearing Files**
 - Contain transcripts, statements/testimony, legislative counsel opinions, and other documents.

- **Governor's Record**
 - Includes **Chaptered Bill Files** which have: enrolled bill report, letter from sponsor, etc.)
 - Also available through the University of California, Hastings College of Law: (415) 565-4751
- **Legislative Bill & Hearing Files**
 - Contains summary and text of bill with amendments, author, and chronological history.
 - Author's Bill Files may contain letters and other background material.
 - Note: not for intent of legislature, but to understand history that led to development of legislative intent.
- **Senate Floor Analyses Bill Files**
- **Videos of selected floor sessions & committee hearings**
 - Senate 1992 to current and Assembly 1988-1998 also available at <http://senate.ca.gov/media-archive>

■ **HELPFUL HINTS**

- Find the bill number and house in which the bill was presented by looking up the statute:
 - via the computer-based research company of your choice
 - on the official California Legislative Information Web site
 - online in digitized e-books
 - in an annotated code book like West's or Deering's (note that the coverage varies between these two publishers)
- The Official California Legislative Information Web site only contains information for bills from session year 1999-2000 to the present.
- Currently, historical legislative information in LexisAdvance and WestlawNext goes back to 1987. And, the Legislative Counsel's website is currently limited to bills introduced before 1993. Most full-text committee reports are on Westlaw & LexisNexis from 1990 forward. But, we have found that Westlaw has some select U.S. public law reports beginning in 1948.
- Some statutes and legislative resources are available as e-books.
- When an enactment was created via direct democracy (initiative, proposition, referendum), look for the ballot measure and the California Voter Guide.

- The bill numbers may change if the Governor vetoed the bill. The subject of the bill may be brought up in multiple years but under different bill numbers.
- For proposed legislation, sign up for LexisAdvance or WestlawNext tracking to monitor changes. Also, the California legislative website allows you to sign up and monitor current legislation (see “My Subscriptions” tab).
- There are journals and appendices for both the Assembly and Senate. Bound editions have an alphabetical subject index as well as a bill action index.
- It may be necessary to go to the law library, do a Google Books or NCJRS search online, ask the California State Archives office to research your bill, or purchase research through a private legislative intent service. *Ask the assigned staff attorney before incurring research expenses.*
- To see your research on-the-go, use these apps (but note these should not be used as replacements for official sources of law):
 - **WestlawNext** (iPhone/iPad & Android) (Free with account)
 - **LexisNexis Get Cases & Shepardize** (iPhone) (Free with account)
 - **LexisAdvance App** (iPhone, iPad & Mobile Site) (Free with account)
 - **Loislaw Mobile** (Walters Kluwer) (iPhone/iPad) (Free with Primary Law subscription)
 - **Fastcase** (iPhone/iPad/iPod Touch & Android) (\$19.99)
 - **HeinOnline App** by William S. Hein & Co., Inc. (iPhone/iPad) (Free)
 - **CA Law** by Tekk Innovations LLC (iPhone/iPad) (\$19.99)
 - **LawBox Mobile Law Library** by LawBox LLC (iPhone/iPad) (Free)
 - **LawStack** by Tekk Innovations LLC (iPhone/iPad) (Free)

The above-referenced apps for Android devices can be accessed through Google Play, and the apps for iPhone, iPad, and iPod Touch devices can be downloaded from the iTunes App Store. For more law-related apps, see:

<http://libguides.law.ucla.edu/content.php?pid=112286&sid=845584>.

■ **GENERAL HISTORY OF RELEVANT CODES**

- The **Evidence Code** was enacted in 1965 based in part on the recommendation of the California Law Review Commission (“Commission”). The Commission was created in 1956 to review the Uniform Rules of Evidence and draft a comprehensive code (the resulting code differed substantially from the uniform rules). Previously, California evidence law was found in various codes: the Code of Civil Procedure, the Business and Professions Code, the Civil Code, the

Corporations Code, the Government Code, the Health and Safety Code, and the Public Utilities Code. View the cross-reference tables for superseding sections.

- The **Family Code** was created in 1992. However, it derives from Civil Code Sections 4000, et seq. Many changes occurred in 1969 from the Family Law Act, although some sections have histories dating back to the 1800s.
- The **Health and Safety Code** was originally codified by Chapter 60 of the Statutes of 1939, “consolidating and revising the law relating to the preservation of the public health and safety, [. . .].” (Stats. 1939, c. 60.) It was renumbered and reorganized in 1997. (Stats. 1995, c. 415.) It is best to refer to the cross-reference tables (usually in the front of the code book) because the annotated codes do not provide full historical derivation notes in all sections.
- The **Penal Code** is one of the original codes from 1872, which at that time was created mostly from the codes developed for New York by David Dudley Field. However, major revisions have been made since then. Firearms and drug laws developed heavily between 1925 and 1935 (see below for more information on drug laws, generally). In 1986, the Mentally Disordered Offender (MDO) Law was enacted as it reads today. (Stats. 1986, c. 858, § 1.) In 2012, firearms and weapons offenses were overhauled into Title 2 of Part 6, commencing with Section 16000, a result of the Deadly Weapons Recodification Act of 2010. (Stats. 2010, c. 711, §§ 4, 6.)
- The **Welfare and Institutions Code** was codified in 1937 and it has undergone many changes. In 1961, the chapter on juvenile court law in Division 2 underwent substantial revision, and the former juvenile court law was repealed. (Stats. 1961, c. 1616, § 1.) Notably, in the process of making its recommendations, the Commission analyzed whether to distinguish wards from dependent children. (See Governor’s Special Study Comm’n on Juvenile Justice, Report pt. I, Recommendations for Changes in California’s Juvenile Court Law (1960).) In 1957, the Protective Services for Children act was created, identifying the county boards of supervisors as the entity responsible for protective services for children. It was repealed in 1965. (Stats. 1965, c. 1784., p. 3978, §3.) In 1987, S.B. 243 passed. S.B. 243 was an act that repealed and added many sections regarding procedures for declaring a minor to be a dependent child of the juvenile court and free from custody of his or her parents, including sections 300, 366.22, 366.26, 366.3. (Stats. 1987, c. 1485.) It also narrowed the definition of abuse in a dependency proceeding to immediate danger to the child. And, it emphasized the public interest to prioritize the placement of a child with his or her relatives over other foster placements. In 1995, A.B. 1523 was enacted. A.B. 1523 made a few more revisions to sections 366.21, 366.22, and 366.26, and it added section 366.28. (Stats. 1995, c. 540, §§ 2-9.)

- Before 1939, most **drug laws** appeared in chapters within the general statutes. For example, in 1929 the Legislature enacted “an act regulating the sale, possession, distribution, and use of habit forming, narcotic and other dangerous drugs and substances and providing penalties for the violation thereof.” (Stats. 1929, c. 216, § 1.) In 1939, many of these drug laws were moved to Health and Safety Code, Division 10, “Narcotics.” (Stats. 1939, c. 60.) In 1972, the narcotics division was repealed and replaced by the Uniform Controlled Substances Act. (Stats. 1972, c. 1407, §3.)

■ **LINKS TO LEGISLATIVE GUIDES AND ADDITIONAL RESOURCES**

- California Attorneys for Criminal Justice: www.cacj.org/Legislation.aspx
- California Bench-Bar Coalition: www.courts.ca.gov/partners/802.htm
- California Law Review: www.californialawreview.org/information/archive/issues
- California Law Revision Commission: www.clrc.ca.gov/
 - Minutes, flyers, agendas, recordings, press, etc.: www.clrc.ca.gov/pub/
- California Legislative Publications: www.leginfo.ca.gov/legpubs.html
- California Legislative Information Web Site: <http://leginfo.legislature.ca.gov/>
- California Office of Administrative Law: www.oal.ca.gov/
 - See Regulatory Notice Register for proposed regulations and history of past regulations.
- California Research Bureau: www.library.ca.gov/crb
- California Secretary of State’s list of lobbyists: cal-access.ss.ca.gov/lobbying/
- California Secretary of State Voter Information: www.voterguide.sos.ca.gov
- California State Archives (primary source documents):
<http://findaid.oac.cdlib.org/institutions/California+State+Archives> and
www.sos.ca.gov/archives.
- California State Assembly Bills & Publications:
<http://clerk.assembly.ca.gov/BILLSLEGISLATURE/LEGPROCESS.HTM>
 - *Session details:* clerk.assembly.ca.gov//clerk/billslegislature/srchframe.htm
- California State Library: (Sacramento’s collections held by Gov’t Publications Division, State Law Library, the California Room, and General Circulation):
<http://www.library.ca.gov/>
- Judicial Counsel Reports: www.courts.ca.gov/626.htm
- Legislative Analyst’s Office: www.lao.ca.gov/
- Legislative Research & Intent LLC (limited access to free services)
<http://www.lrihistory.com/Resources/CaliforniaLinks.aspx>

- Little Hoover Commission: www.lhc.ca.gov/
- National Conference of State Legislatures: www.ncsl.org/research/elections-and-campaigns/ballotmeasures
- Newspaper articles:
 - Fresno Bee www.fresnobee.com/state-news/
 - Los Angeles Times www.latimes.com/local/politics/
 - Marin Independent Journal www.marinij.com
 - Sacramento Bee www.sacbee.com/news/politics-government/state-politics/
 - San Diego Union-Tribune www.utsandiego.com/news/
 - San Francisco Chronicle <http://www.sfgate.com/politics/>
 - San Francisco Examiner www.sfexaminer.com/sanfrancisco/government
 - San Jose Mercury News www.mercurynews.com/politics-government
- Online Computer Library Center (“OCLC”): <https://oclc.org>
- Open Directory Project/California Government & Politics: dmoz.org/Regional/North_America/United_States/California/Society_and_Culture/Politics
- Public Policy Institute of California: www.ppic.org/main/home.asp
- Rand (nonprofit public policy research organization): www.rand.org/
- San Diego Law Library: www.sandiegolawlibrary.org
- Senate Office of Research: www.sor.govoffice3.com/
- State Auditor’s Office: www.bsa.ca.gov

■ **INDEXES OF HEARING & REPORT PUBLICATIONS**

- California Interim Legislative Committees and Their Reports (1937-1971) (OCLC # 7377690)
- Index of printed reports written by the California Law Revision Commission: <http://www.clrc.ca.gov/pub/Printed-Reports/>
- California State Assembly Chief Clerk Legislative Archive (complete bill history 1881-2007): <http://192.234.213.35/clerkarchive/archive/FinalHistory/>
- California State Library, www.library.ca.gov/publications/csp/ (2001-present)
- California State Publications, 1945-May 2003 (OCLC# 1713866)
- Hearings and Reports of Committees of the California Legislature, 1961-1984 (OCLC# 2255606)
- Joint Publications Catalog, 1985-1989 (OCLC# 73515065)
- Larsen, List of Special Committees and Commissions by Legislative Session (1850-1936) (OCLC # 79725635); Library Class: KFC20; Dewey Decimal Class: 328.794