

MINUTES OF COMMISSION MEETING

May 27, 1999

Present at the meeting of the New Jersey Law Revision Commission held at 15 Washington Street, Newark, New Jersey were Commissioners Albert Burstein, Hugo Pfaltz, Jr., and Peter Buchsbaum. Professors Robert Carter and William Garland attended on behalf of Commissioners Acting Dean Eric Neisser and Dean Ronald J. Riccio, respectively.

Minutes

The Commission accepted the Minutes of the April 22, 1999 meeting as submitted.

Legislative Report

John Cannel reported on the status of Commission projects in the Legislature. Two bills, one dealing with compilation of the criminal code and the other with surrogates, were signed by the Governor. Bills on lost property and service of process were ready for listing in the Assembly for enactment. A bill on the penalty enforcement act is in the Senate awaiting action. All three should be enacted this year. The standard form contract act and the electronic records act are being put into bill form. The Commission requested that Mr. Cannel work on having bills on Commission projects pre-filed for the next Legislative session.

Juries

Staff received a letter from Judge James J. Ciancia, the Administrative Director of the Courts, containing comments on the one/two day service rule and to the three-year record retention requirement. The Commission decided to retain the one/two day rule but to accede to the suggestion that records be retained for one year rather than three noting that the court has authority to extend the period of retention where an issue has been raised that requires more than one year's records. The Commission approved the release of the Final Report.

Uniform Anatomical Gift Act

Judith Ungar distributed the submission relating to New Jersey's Anatomical Gift Act made by Gift of Life Donor Program. Howard Nathan, Executive Director of Gift of Life, explained the role of an OPO (Organ Procurement Organization). There are 62 in the nation.

Jan Weinstock, Counsel, Gift of Life, explained that an OPO at the first point of contract is responsible for getting the gift. Professor Carter asked if OPO should be added to the list of organizations to which an anatomical gift may be made under 26:6-59(2). Mr. Nathan said that an OPO could fit in subsection (3) and no change was necessary.

Mr. Nathan said that New Jersey regulations, coming out in final form in two months will correlate with the federal regulations. The Commissioners asked what would happen if the New Jersey Department of Health and Senior Services regulations are not adopted and whether statutes should be changed to provide framework for regulations. Mr. Nathan said that no statutory change was necessary.

The Commission directed staff to take the following action:

Sec. 26:6-58.1. Anatomical gift consent by relatives

Delete the words "an acute care" in the first sentence and insert in their place the word "a."

Add the word "will" to the list in the second sentence so that a person may use a will to express consent to be donor.

Replace the statutory language about actual notice of opposition.

In the sentence beginning "If there is no evidence" after the word "gift" add: "the organ procurement organization representative or the designated requestor shall attempt to inform" and delete "shall be informed."

Ms. Weinstock noted the current statutory language regarding "decedent's religious beliefs" which is omitted in the Commission's draft. Maureen Garde suggested that staff examine the legislative history to determine if the language represented is a compromise.

Sec. 26:6-58.7. Hospital notification to organ procurement organization

Delete; section has been incorporated into the first sentence of 26:6-58.1.

Sec. 26:6-60.1. Anatomical gift ascertainment

Delete; pre-empted by federal law.

Sec. 26:6-60-2. Hospital records required

Delete the last sentence; pre-empted by federal law. The organ procurement organization, not the hospital, is the sole entity responsible for contacting the donee.

Staff will prepare a new draft for the next meeting.

Uniform Common Interest Ownership Act

Professor Garland delivered to staff a marked-up copy of the draft containing his recommended changes and stated that he met with John Cannel to work on the draft. The Commission deferred consideration of this project and asked staff to consult with Professor Garland and submit a new draft for the next meeting.

Mr. Cannel reported that other proposals on this subject matter were before the Legislature, but that the Commission's report would be viable if it avoided controversial issues such as alternative dispute resolution, open public meetings and availability of documents.

Child Custody Act

The Commission considered the three comments of the Legislative Committee of the Conference of Family Division Presiding Judges which were received after Commission approval of the Final Report. The Commission voted to leave the Final Report in its approved form.

Environmental Protection

Ms. Garde reported on the progress of the environmental protection project. The completed projects have been delivered to the Office of Legislative Services to be put in bill form, at the request of Assemblyman Corodemus. The Commission approved the statutes relating to "Natural and Historic Resources" and released it as a Final Report.

Miscellaneous

Judy Ungar reported that Mr. Cannel and she would be meeting with Cemetery Association representatives next week to compare the two groups' Title 8A revision Reports.

The next Commission meeting is scheduled for June 24, 1999.