



ENGROSSMENT*

State Supreme Court Decision on Gay Marriage Assisted by Legislative Intent and History Materials

LEGISLATIVE INTENT SERVICE, INC. is proud to have assisted the successful parties before the California State Supreme Court in re the "Marriage Cases," who argued that the failure of California to designate the official relationships of same-sex couples as marriage violated the state's constitution.

We provided compilations of legislative history materials that were very helpful to the success of the Marriage cases. The court concluded that gay couples' right to form a family relationship was violated, that the domestic partner statutes potentially impinged upon a same-sex couple's constitutional right to marry under the state constitution, and that the statutes limiting marriage to opposite-sex couples were unconstitutional under the state's constitutional equal protection clause.

The California Supreme Court stated the following near the conclusion of its opinion:

In the present case, it is readily apparent that extending the designation of marriage to same-sex couples clearly is more consistent with the probable *legislative intent* than withholding that designation from both opposite-sex couples and same-sex couples in favor of some other, uniform designation. In view of the lengthy *history* of the use of the term "marriage" to describe the family relationship here at issue, and the importance that both the supporters of the 1977 amendment to the marriage statutes and the electors who voted in favor of Proposition 22 unquestionably attached to the designation of marriage, there can be no doubt that extending the designation of marriage to same-sex

couples, rather than denying it to all couples, is the equal protection remedy that is most consistent with our state's general legislative policy and preference. [*Emphasis added*]

So, what types of legislative intent documents did the state supreme court look at in this opinion?

In its review of the current marriage statutes, the court cited to **Senate Committee on Judiciary analyses**, an **Enrolled Bill Report analysis** of the Governor's Legal Affairs Office, different **amended versions of relevant bills**, **Governor's veto messages**, and Proposition 22 documents, such as **Voter Information Guide** and the arguments stated therein favoring and opposing Proposition 22 of 2000.

As the supreme court reviewed domestic partnership statutes, the opinion cited to a **Senate Committee on Appropriations fiscal summary**, and a **ballot pamphlet analysis** prepared by the Legislative Analyst. Later, in its review of the meaning of the term "domestic partnership, the court even cited to a **New Jersey Interim Report!**

In one of its conclusions, that the "type of discrimination or differential treatment between same-sex and opposite-sex couples reflected in the challenged marriage statutes cannot fairly be viewed as embodying the same type of discrimination at issue in the California decisions establishing that the strict scrutiny standard applies to statutes that discriminate on the basis of sex," the supreme court footnoted to an **Assembly Committee on Judiciary analysis** that contained a digest of a bill affecting one of the marriage statutes.

Legislative Research

LEGISLATIVE INTENT SERVICE, INC. has been cited in over 60 court cases. We are the source of legislative research documents in literally hundreds of

other cases. See our current points and authorities at <http://www.legintent.com/pointsauthorities.php>.

We are currently preparing our **updated points and authorities** coming out this FALL.

Self-Study Exam!

We have available, *for free*, an approved State Bar 1.0 hour MCLE self-study exam on the subject of legislative intent. The title of the exam is:

“Legislation: Process, Documents and Analysis – a Primer.”

You can easily find this self-study exam by going to our website at [legintent.com](http://www.legintent.com) and scrolling down until you find “MCLE” *or* by logging on directly at: <http://www.legintent.com/onlinemcle.php>

There are 20 true and false questions for the attorney to answer after reviewing the self-study materials. Once the answer sheet is completed, the attorney then uploads the answer sheet in an attachment to us at mcle@legintent.com. We will score the exam and if the attorney passes, we will immediately forward the State Bar approved Participant’s Certificate for 1.0 hour of MCLE. Free!

Upcoming MCLEs and Meetings

We are booked with private law firms, county bar associations, and state attorney offices to provide *free summer MCLEs* on legislative intent and history (1.0 hr. regular) or legislative intent and ethics (1.0 hr. ethics) to educate young attorneys on legislative intent and history and to add to the body of knowledge already possessed by experienced attorneys.

If you missed the opportunity to book one of our free summer MCLEs, look for our announcement for our firm’s FALL and WINTER MCLEs. Also, don’t forget that you and any California attorney in your firm can take our free self-study MCLE exam.

In **September**, we will be at the **State Bar Annual Meeting in Monterey**. If you are going to be attending, visit our class and get 2 hours MCLE and .5 hour of legal ethics. The class is called “*Nuts and Bolts of Using Legislative Intent*,” on Thursday, Sept. 25th, 10 – Noon, and it will offer strategies for

advocating based on the use of legislative history to determine legislative intent of a statute. We will teach you how to take the guess work out of legislative intent documents, including how to ethically use them. Make your plans to come by our booth and/or join our class!

We will be attending the **American Association of Law Librarians’** meeting in Portland, Oregon on **July 12th – 15th**. Visit our booth and say “hi” to Tom!

SCALL Award

LEGISLATIVE INTENT SERVICE, INC. is honored this year to receive the Southern California Association of Law Librarians’ “**Vendor Service Award**.” *All of us here appreciate this most treasured recognition!* We have many friends in the law library community who have been so kind and generous in their enthusiasm for our work. The award recognizes our 34-year commitment to SCALL, quality research, and legal education.

In our daily quest to meet our clients’ goals, we rely on our crack team of Capitol researchers, production staff, technical experts, writers, and staff attorneys to pull together legislative histories documenting the background and legislative processes endured by legislative bills and regulations. **Thank you for this special recognition!**

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