

MEMORANDUM 2024-41

New Topics and Priorities

Annually, the Commission¹ reviews its current program of work, determines its priorities for the next year, and decides whether to request changes to the topics on its legislatively enacted [Calendar of Topics Authorized for Study](#) (“Calendar of Topics”).

To assist the Commission in that process, the staff prepares a *New Topics and Priorities* memorandum.

This memorandum is divided into four main parts:

- (1) **Active Studies.** These are studies the Commission is working on at the present time.
- (2) **New Legislative Assignments.** These are new assignments that were just enacted by the Legislature.
- (3) **Suspended Studies.** These are studies the Commission worked on recently but set aside prior to completion. Studies in this category may eventually be moved to the inactive studies list (see Exhibit 2), which serves to memorialize a topic that may eventually be reactivated but is unlikely to be reactivated in the near future.
- (4) **Proposed New Studies.** This part is reserved for discussion of new study topics that the Commission received in the preceding year, if any.

The memorandum then presents a summary of the Commission’s expected workload in 2025, along with any staff recommendations for changes to the Commission’s study authority.

The memorandum concludes with a discussion of whether any studies should be elevated, demoted in priority, or dropped entirely.

¹ The current Calendar of Topics is authorized by 2024 Cal. Stat. res. ch. 138 ([ACR 169](#) (Kalra)).

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). 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.

In addition, the following items are attached as Exhibits to this memorandum:

<u><i>Exhibits</i></u>	<u><i>Exhibit page(s)</i></u>
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ACTIVE STUDIES

State and Local Agency Access to Customer Information from Communication Service Providers: Administrative Subpoena

In 2022, the Commission completed a recommendation on a narrow reform within this larger study: addressing the use of administrative subpoenas to obtain electronic communication records.² Legislation to implement that recommendation was introduced in 2023³ and but was held in Senate Appropriations in 2023.⁴ The Commission decided in October 2023 to reactivate study work on this topic to take an expedited look at specific concerns that were raised during the legislative process.⁵ **Work on this topic is ongoing and will proceed into early 2025. As indicated in Memorandum [2024-48](#), the staff is proposing changes to that completed recommendation for consideration by the Commission at its October 10, 2024 meeting. Further changes may be recommended as a result of public comments.**

In 2020, the Commission considered a separate issue within this study: minimizing interception of privileged information when conducting a search of electronic communication records.⁶ Since that issue is distinct from the Commission’s other ongoing work in this study, that issue is presented with the suspended studies later in this memorandum.

Statutes Made Obsolete by Trial Court Restructuring

In 2023, the Commission made further progress in its years-long study of statutes made obsolete by trial court restructuring (or “TCR,” which includes, broadly, elimination of the municipal and justice courts, state funding of the trial courts, state employment of court personnel, and state responsibility for court facilities). Legislation to implement two TCR

² See [State and Local Agency Access to Electronic Communications: Notice of Administrative Subpoena](#), 49 Cal. L. Revision Comm’n Reports __ (2022).

³ [AB 522](#) (Kalra).

⁴ See Memorandum [2024-27](#), p. 1.

⁵ See [Minutes](#) (Oct. 2023), p. 5.

⁶ See Memorandum [2020-20](#), pp. 9-15 and Memorandum [2020-54](#).

recommendations from 2022 was enacted.⁷

Also in 2023, the Commission circulated a tentative recommendation on another TCR issue: the repeal of Penal Code Section 1463.5.⁸ No comment was received on that proposal. The staff presented a final recommendation on that topic for the Commission's approval in 2024. As explained in Memorandum 2024-43, these reforms, along with a Commission-recommended change that was omitted from the 2023 legislation,⁹ were enacted as part of the Senate Committee on Public Safety's annual omnibus bill.¹⁰

Because there is no more work of this study that the staff is aware of, the staff recommends this topic be moved to the inactive studies list.

Antitrust Law

In 2022, the Commission received a new assignment on Antitrust Law.¹¹ In late 2022, the Commission decided to treat this topic as a high priority.¹²

In 2023, the Commission heard from several invited speakers about different aspects of antitrust law, the European Union Competition Law, and New York State's "Twenty-First Century Anti-Trust Act." Several working groups of experts were formed to write reports for the Commission about different aspects of antitrust law.¹³ In 2024, these reports were presented to the Commission over a series of public meetings, along with comments from invited speakers and the general public.¹⁴

Notably, this study was not given a due date. **However, the Commission should continue to treat this as a high priority and make as much progress as it can in 2025, consistent with other demands on its resources.**

Equal Rights Amendment

In 2022, the Commission received a new assignment on the Equal Rights Amendment

⁷ 2023 Cal. Stat. ch. 131 ([AB 1754](#) (Committee on Judiciary)). This bill implemented proposed legislation from *Statutes Made Obsolete by Trial Court Restructuring: Part 8*, 49 Cal. L. Revision Comm'n Reports __ (2022) and *Statutes Made Obsolete by Trial Court Restructuring (Part 9): Jurisdictional Classification of a Drug Asset Forfeiture Proceeding*, 49 Cal. L. Revision Comm'n Reports __ (2022).

⁸ Memorandum [2023-28](#).

⁹ See [First Supplement to Memorandum 2023-42](#), p. 1 (discussing proposed amendment to Penal Code Section 2620 from *Statutes Made Obsolete by Trial Court Restructuring: Part 8*, 49 Cal. L. Revision Comm'n Reports __ (2022)).

¹⁰ 2024 Cal. Stat. res. Ch. 495 ([SB 1518](#) (Committee on Public Safety)).

¹¹ 2022 Cal. Stat. res. ch. 147 ([ACR 95](#) (Cunningham & Wicks)).

¹² See Memorandum [2022-42](#), p. 4.

¹³ See Memorandum [2023-16](#) for a description of the Expert Working Groups and participants.

¹⁴ See the Commission's [Antitrust Law Study page](#) for the Working Group reports, presentations, and public comments.

and sex equality.¹⁵ In late 2022, the Commission decided to treat this topic as a high priority.

In 2023, the Commission heard from several invited speakers about different aspects of equal protection and anti-discrimination law and considered several lengthy memoranda and reports providing legal background about different constitutional doctrines and statutes relevant to the Equal Rights Amendment and issues of sex equality generally.

In 2024, the Commission decided to craft a single statutory provision defining “sex discrimination” or “discrimination on the basis of sex” to be codified in all California codes and commented on draft legislation.¹⁶ The Commission decided against amending remaining gender-biased terms in statutes, as this is being handled by Legislative Counsel. Staff is currently conducting outreach to stakeholders seeking examples of laws, including caselaw and statutes, that facially or by virtue of their disparate impact, disadvantage individuals based on sex. Staff plans to present feedback to the Commission in early 2025.

This study was also not given a due date. **However, the Commission should continue to treat this as a high priority and make as much progress as it can in 2025, consistent with other demands on its resources.**

Landlord-Tenant Terminology

In 2022, the Commission received a new assignment related to landlord-tenant terminology.¹⁷ That study assignment included a deadline of December 31, 2024, for the work.

As indicated when the Commission considered New Topics in 2022,¹⁸ staff work on this topic was deferred initially; however, the Commission made the study a high priority for 2024. At its October 10, 2024 Commission meeting, the staff will present for the Commission’s approval or revision a staff draft of a final report in the study.

The draft final report does not make recommendations on changes to existing law; thus, the staff recommends that this topic be moved to the inactive studies list if the Commission approves, with or without revisions, the draft of the final report in the study.¹⁹

¹⁵ 2022 Cal. Stat. res. ch. 150 ([SCR 92](#) (Leyva)).

¹⁶ See Memorandum [2024-16](#) and Minutes, p. 5 ([May 2024](#)).

¹⁷ 2022 Cal. Stat. ch. 462 ([AB 2503](#) (Cristina Garcia)).

¹⁸ Minutes p. 4 ([Sept. 2022](#)).

¹⁹ See [Memorandum 2024-49](#).

Recodification of Toxic Substance Statutes

In 2021, the Commission approved a recommendation to recodify Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, relating to hazardous substances.²⁰ Two bills were enacted in 2022 to implement that recommendation and the associated conforming revisions.²¹

The Commission is also authorized to revise Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code,²² and briefly recommenced work on this topic in 2023,²³ but it was put on hold to work on a legislative assignment with a 2024 deadline. Chapter 6.5 is entitled “Hazardous Waste Control,” but the substance of Chapter 6.5 is not limited to hazardous waste. Very generally, the substantive provisions in Chapter 6.5 fall into one of two categories: (1) provisions that govern hazardous waste and (2) provisions that aim to reduce or eliminate toxics in products. However, Chapter 6.5 is not organized in a way that clearly separates these two categories of materials, and the Commission is working to clarifying the structure.

The Commission reactivated this work at its August 15, 2024 meeting.²⁴ The staff recommends that the Commission continue work on this study in 2025 consistent with other demands on its resources.

NEW LEGISLATIVE ASSIGNMENTS

As indicated in Memorandum [2024-43](#), the Legislature assigned one new study to the Commission.²⁵

Study on Removing the Terms “Dependent Adult” and “Dependent Person” from the California Codes

In findings and declarations, the Legislation states, among other things, that:

[t]he terms “dependent adult” and “dependent person” are misleading because many of the people with disabilities that those terms cover live independently. These terms can mislead law enforcement officers, social workers, and even crime victims and their families to think that many people with disabilities are excluded from the law’s protections.

²⁰ *Hazardous Substance Account Recodification Act*, 48 Cal. L. Revision Comm’n Reports __ (2021); see also *Hazardous Substance Account Recodification Act: Conforming Revisions*, 48 Cal. L. Revision Comm’n Reports __ (2021).

²¹ 2022 Cal. Stat. ch. 257, 258 ([AB 2293](#) and [2327](#) (Committee on Environmental Safety and Toxic Materials)).

²² 2018 Cal. Stat. res. Ch. 158 ([SCR 91](#) (Roth)).

²³ See, e.g., Memoranda [2023-20](#), [2023-33](#), and [2023-39](#).

²⁴ See Memoranda [2024-36](#), First Supplement to [2024-36](#), and [2024-37](#).

²⁵ 2024 Stat. ch. 233 ([AB 1906](#) (Gipson)).

To address the concerns about the use of those terms in the codes, AB 1906 requires the Commission to conduct a study as follows:

(c)(1) The commission shall, with input from stakeholders, including, but not limited to, the state protection and advocacy agency designated pursuant to Division 4.7 (commencing with Section 4900) of the Welfare and Institutions Code, complete and submit to the Legislature a study on how to remove the terms “dependent adult” and “dependent person” from California code sections, including, but not limited to, code sections that use the term “dependent” in conjunction with the term “elder” to describe the physical or financial abuse of persons who are elders or persons with a disability, including, but not limited to, the Penal Code, Welfare and Institutions Code, and Civil Code.

(2) As part of the study, the commission shall convene a working group that includes all of the following:

(A) The state protection and advocacy agency.

(B) The State Department of Social Services.

(C) Groups representing persons who are described by the current definitions of “dependent adults” and “dependent persons.”

(D) Persons who are described by the current definitions of “dependent adults” or “dependent persons.”

(3) The study shall identify all existing California code sections regarding persons who meet the definition of “dependent adult” and “dependent person” that should be amended in accordance with this subdivision.

(4) The study shall include recommendations on how to revise existing California code sections in order to remove “dependent adult” and “dependent person” and replace those terms with new terminology in a manner that would describe these adults in a respectful way and that would preserve the legal rights and protections of both of the following groups of persons in a comprehensive and consistent manner:

(A) Persons who meet the definition of “dependent adult” and “dependent person” as currently recognized in statute, regulation, and case law.

(B) Persons who do not meet the definition of “dependent adult” and “dependent person” but are described in conjunction with such persons, including elders who are protected by laws governing “elder and dependent adult abuse.”

(d)(1) The requirement for submitting the study imposed under subdivision (c) is inoperative on January 1, 2029, pursuant to Section 10231.5 of the Government Code.

(2) The study to be submitted pursuant to subdivision (c) shall be submitted in compliance with Section 9795 of the Government Code.

This study was also not given a due date. However, the Commission should treat this as a high priority and make as much progress as it can in 2025, consistent with other demands on its resources.

SUSPENDED STUDIES

As a general matter, the staff anticipates that the active studies will consume much of the Commission's staff resources in the coming year. As resources permit, the staff recommends prioritizing work on suspended studies that are closer to completion or that were more recently active (as indicated below).

Discovery in Civil Cases

The Commission undertook a study of civil discovery in 2002, with the benefit of a background study prepared by Prof. Gregory Weber of McGeorge School of Law.²⁶ A number of reforms were enacted, including the Commission's recommendation on *Deposition in Out-of-State Litigation*,²⁷ which was enacted in 2008.²⁸

While it was actively working on civil discovery, the Commission received numerous suggestions from interested persons, which the staff has kept. The Commission also identified other discovery topics it might address.

In 2016, the Commission directed the staff to examine a discovery topic suggested by then-Commissioner Capozzola related to depositions and prepare a list of other discovery topics suggested for study.²⁹ The Commission later suspended that work in light of a pending discovery-related bill (AB 383 (Chau)).³⁰ After AB 383 was enacted into law with a sunset date of January 1, 2023,³¹ the Commission decided to suspend its work on discovery-related issues until after the sunset of AB 383.³²

At this time, the staff does not recommend re-activating this topic. Instead, the staff suggests retaining this topic on the suspended studies list, for possible future re-activation after the Commission completes some of its ongoing studies and suspended studies that are closer to completion.

Emergency-Related Reforms

In 2022, the Commission decided to prepare an informational report on emergency laws, with information about approaches taken in other jurisdictions.³³ This was intended to provide useful information to the Legislature and Governor, without any interference in

²⁶ Gregory S. Weber, [Potential Innovations in Civil Discovery: Lessons for California from the State and Federal Courts](#), 2001.

²⁷ 37 Cal. L. Revision Comm'n Reports [99](#) (2007).

²⁸ 2008 Cal. Stat. ch. 231 ([AB 2193](#) (Tran)).

²⁹ See Minutes ([Dec. 2016](#)), p. 3.

³⁰ See Minutes ([Aug. 2017](#)), p. 7; Memorandum [2017-26](#), pp. 22-24.

³¹ 2017 Cal. Stat. ch. 189 ([AB 383](#) (Chau)).

³² Minutes ([Dec. 2018](#)), p. 3. It does not appear that the sunset date has been extended.

³³ See Minutes ([March 2022](#)), p. 4, and Memorandum [2022-21](#).

current reform efforts.

This work was put on hold when the Commission began its work on new legislative assignments at the end of 2022 (the Antitrust and Equal Rights Amendment studies). Since then, the Uniform Law Commission has completed its work on the Model Public-Health Emergency Authority Act.³⁴

The Commission should reactivate this work if resources permit in 2025. Upon reactivation, the Commission may want to consider the Model Act and whether emergency law continues to be an active area for legislative attention in California.

State and Local Agency Access to Customer Information from Communication Service Providers: Minimization

In 2020, the Commission considered the possibility of developing a statutory procedure to minimize the interception of privileged information when searching electronic records such as email.³⁵ It decided to work on that topic.³⁶

That work has not yet started. **Compared to the other active and pending studies, this topic is not particularly urgent. The staff recommends against starting work on this topic in 2025.** It should remain on the suspended study list for now.

PROPOSED NEW STUDIES

The Commission received one new study suggestion that is addressed below.

Probate Code

The Commission received one new topic suggestion that that the Commission is currently authorized to study.

Beverly Pellegrini wrote to Commission staff raising concerns about the application of Probate Code Sections 850³⁷ and 17200(a)³⁸ to an heir who was never a beneficiary to a trust. More specifically, she believes the law should be clarified to address whether such an individual has standing to make a claim under Section 17200(a) of the Probate Code.

Pellegrini refers to Barefoot v. Jennings (2020) 8 Cal. 5th 822, in which the California Supreme Court specifically declined to address whether an heir who was never a beneficiary to a trust has standing to make a claim under Probate Code 17200. Barefoot v.

³⁴ The Uniform Law Commission, [Public-Health Emergency Authority Act](#).

³⁵ Memorandum [2020-54](#) and its [First Supplement](#).

³⁶ Minutes ([Oct. 2020](#)), p. 4.

³⁷ Prob. Code § [850](#) allows for the transfer of property into or out of a trust, estate, guardianship, or conservatorship.

³⁸ Prob. Code § [17200\(a\)](#) authorizes a trustee or beneficiary of a trust to petition the court about a trust.

Jennings addressed the question “[i]f amendments to a revocable trust made shortly before the settlor dies disinherit a beneficiary, does that individual, as one who is not named in the trust’s final iteration, have standing to challenge the validity of the disinheriting amendments in probate court on grounds such as incompetence, undue influence, or fraud?” Although the plain language of 17200 (a) permits only a trustee or beneficiary of a trust to petition the court, the court narrowly held “that the Probate Code grants standing in probate court to individuals who claim that trust amendments eliminating their beneficiary status arose from incompetence, undue influence, or fraud.” In a footnote to that holding, the court clarified that it was not deciding whether an heir who was never a trust beneficiary has standing under the Probate Code to challenge that trust. It appears that no subsequent decision has addressed this question.

Pellegrini states that “courts are undertaking conversion of assets to protect contingent remainders with no vested interests and are using these assets to pay the contingent remainders”³⁹ creditors (also a violation of spendthrift⁴⁰ provisions in a trust that permit no distribution to any future beneficiary until those monies are received).” Pellegrini suggests that clarifying standing would address this issue.

Related to this, Pellegrini also appears to suggest that the commission study: (1) whether the Probate Code should contain provisions on mandatory joinder when all other beneficiaries are indispensable parties and an heir who was never a trust beneficiary brings an action to court and (2) use of the demurrer in California instead of a general motion to dismiss under the circumstances described above.

Because the issue of whether an heir who was never a trust beneficiary has standing appears to be an open question, does the Commission wish to add this topic to the list of carryover items relating to the Probate Code for future consideration when the Commission’s priority workload eases?

WORK PRIORITIES FOR 2025

The Commission should continue work on active studies and start the study directed by the Legislature in 2024. This would include:

³⁹ Prob. Code § [24\(c\)](#) defines “beneficiary” as “a person to whom a donative transfer of property is made or that person’s successor in interest” ... “[a]s it relates to a trust, means a person who has any present or future interest, vested or contingent.”

⁴⁰ A spendthrift trust is a trust which provides that the interest of the beneficiary can neither be transferred by the beneficiary nor reached by the beneficiary’s creditors. Such trusts are created for the purpose of providing a fund for another and, at the same time, securing it against his or her own improvidence or incapacity. See California Department of Tax and Fee Administration, Business Taxes Law Guide, Revision 2024, 170.0000 Collection of Tax by Board, [Annotation 170.0140](#).

- Undertaking an expedited, narrow study of issues discussed in Memorandum [2023-42](#), related to AB 522 (Kalra), which would have implemented the Commission’s recommendation on *State and Local Agency Access to Electronic Communications: Notice of Administrative Subpoena*, 48 Cal. L. Revision Commission Reports __ (2022).
- Continuing work on the Commission’s ongoing study of Antitrust Law.
- Continuing work on the Commission’s ongoing study related to the Equal Rights Amendment.
- Continuing the work recodifying hazardous material statutes that the Commission reactivated at its August 15, 2024 meeting.⁴¹
- Begin working on the study required by AB 1906 to remove the terms “Dependent Adult” and “Dependent Person” from the California Codes.⁴²

These topics will consume much of the Commission’s staff resources in 2025. As resources permit, the Commission should also:

- Reactivate the work on emergency law.

In addition to the study work described above, the staff may have some legislative work if the Commission approves a recommendation on the narrow study of issues discussed in Memorandum 2023-42, related to AB 522 (Kalra), which would have implemented the Commission’s recommendation on *State and Local Agency Access to Electronic Communications: Notice of Administrative Subpoena*, 48 Cal. L. Revision Commission Reports __ (2022).

Does the Commission approve the work priorities outlined above for 2025?

CHANGES TO STUDY AUTHORITY

At this time, the staff proposes no changes to the Commission’s existing authority.

Respectfully submitted,

Sharon Reilly
Executive Director

⁴¹ See Memoranda [2024-36](#) and [2024-39](#) at p. 4.

⁴² 2024 Stat. ch. 233 ([AB 1906](#) (Gipson)).

EXHIBIT 1. COMMISSION STUDY AUTHORITY

There are two sources of Commission study authority: (1) the “Calendar of Topics Authorized for Study” that is enacted as a concurrent resolution at least once per two-year legislative session and (2) any statute or other concurrent resolution that authorizes or directs the Commission to study a particular topic.¹ The current authority conferred by each of those sources is listed below.

Calendar of Topics Authorized for Study

The most recent Calendar of Topics was enacted in 2024.² It grants authority to study 14 topics:

- (1) **Creditors Remedies.** Whether the law should be revised that relates to creditors’ remedies, including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters.
- (2) **Probate Code.** Whether the Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code, and related matters.
- (3) **Real and Personal Property.** Whether the law should be revised that relates to real and personal property, including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, common interest developments, powers of termination, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant on assignment, subletting, termination, or abandonment of a lease, and related matters.
- (4) **Family Law.** Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption, guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code.
- (5) **Civil Discovery.** Whether the law relating to discovery in civil cases should be revised.

¹ See Gov’t Code § [8293](#).

² 2024 Cal. Stat. res. ch. 138 ([ACR 169](#) (Kalra)).

- (6) **Evidence Code.** Whether the Evidence Code should be revised.
- (7) **Alternative Dispute Resolution.** Whether the law relating to arbitration, mediation, and other alternative dispute resolution techniques should be revised.
- (8) **Administrative Law.** Whether there should be changes to administrative law.
- (9) **Trial Court Unification.** Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification.
- (10) **Contracts.** Whether the law of contracts should be revised, including the law relating to the effect of electronic communications on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters.
- (11) **Place of Trial in a Civil Case.** Whether the law governing the place of trial in a civil case should be revised.
- (12) **Fish and Game Code.** Whether the Fish and Game Code and related statutory law should be revised to improve its organization, clarify its meaning, resolve inconsistencies, eliminate unnecessary or obsolete provisions, standardize terminology, clarify program authority and funding sources, and make other minor improvements, without making any significant substantive change to the effect of the law.
- (13) **Hazardous Materials.** The Legislature authorizes and requests that the California Law Revision Commission study, report on, and prepare recommended legislation to revise Chapter 6.5 (commencing with Section 25100) and Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code, and related provisions, to improve the organization and expression of the law. Such revisions may include, but are not limited to, grouping similar provisions together, reducing the length and complexity of sections, eliminating obsolete or redundant provisions, and correcting technical errors. The recommended revisions shall not make any substantive changes to the law. The commission's report shall also include a list of substantive issues that the commission identifies in the course of its work, for possible future study; and be it further
- (14) **Emergency Response.** Whether the law should be revised to provide special rules that would apply to an area affected by a state of disaster or emergency declared by the federal government, a state of emergency proclaimed by the Governor under Section 8625 of the Government Code, or a local emergency proclaimed by a local governing body or official under Section 8630 of the Government Code.

Authority Conferred by Statute or Other Concurrent Resolution

The Commission is authorized to work on the following topics by statute or other concurrent resolution (listed in reverse chronological order of enactment):

- Landlord-Tenant Terminology.³
 - Equal Rights Amendment.⁴
 - Antitrust Law.⁵
 - Revocable Transfer on Death Deeds.⁶
 - California Public Records Act.⁷
 - State and Local Agency Access to Customer Information from Communication Service Providers.⁸
 - Deadly Weapons.⁹
 - Trial Court Restructuring.¹⁰
 - Enforcement of Judgments.¹¹
 - Technical and Minor Substantive Matters.¹²
 - Statutes Repealed by Implication or Held Unconstitutional.¹³
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³ 2022 Cal. Stat. ch. 462 ([AB 2503](#) (Garcia)).

⁴ 2022 Cal. Stat. res. ch. 150 ([SCR 92](#) (Leyva)).

⁵ 2022 Cal. Stat. res. ch. 147 ([ACR 95](#) (Cunningham & Wicks))

⁶ Prob. Code § [5605](#). See also Exhibit 2.

⁷ 2016 Cal. Stat. res. ch. 150 ([ACR 148](#) (Chau)).

⁸ 2013 Cal. Stat. res. ch. 115 ([SCR 54](#) (Padilla)).

⁹ 2010 Cal. Stat. ch. 711, § 7 ([SB 1080](#) (Committee on Public Safety)).

¹⁰ Gov't Code § [71674](#).

¹¹ Code Civ. Proc. § [681.035](#).

¹² Gov't Code § [8298](#).

¹³ Gov't Code § [8290](#).

EXHIBIT 2. INACTIVE STUDY LIST

This Exhibit serves to memorialize mandatory studies with remote due dates and to list topics that the Commission has expressed interest in starting or returning to, but are unlikely to be activated any time soon.

Fish and Game Law

In 2023, the Commission completed its revision of the Fish and Game Code, finalizing a recommendation in February 2023.¹⁴ Legislation implementing that recommendation was enacted in 2023.¹⁵

Remote Deadline Studies

Due: January 1, 2031 – Revocable Transfer on Death Deed Follow-Up Study

The Commission is required to conduct a second follow-up study of the revocable transfer on death deed statute, with a deadline of January 1, 2031.¹⁶ Work on that study should begin in 2029.

Topics that the Commission Might Eventually Start or Restart

The topics below are listed in reverse chronological order, either by reference to the date that work was suspended or the Commission expressed interest in studying the topic. The relevant date is shown in parentheses.

Commissioners should feel free to suggest a topic listed below be dropped from this list if it seems likely the topic will never have sufficiently high priority to be started or restarted. The staff may do so as well.

Discovery in Civil Cases (2017/2009)

The Commission undertook a study of civil discovery in 2002, with the benefit of a background study prepared by Prof. Gregory Weber of McGeorge School of Law.¹⁷ A number of reforms were enacted, including the Commission's recommendation on

¹⁴ [Fish and Game Law: Technical Revisions and Minor Substantive Improvements \(Part 3\)](#), 49 Cal. L. Revision Comm'n Reports __ (2023).

¹⁵ 2023 Cal. Stat. ch. 132 ([AB 1760](#) (Committee on Water, Parks, and Wildlife)); see also 2023 Cal. Stat. ch. 876 ([SB 500](#) (McGuire)); [First Supplement to Memorandum 2023-42](#).

¹⁶ See Prob. Code § [5605](#).

¹⁷ Gregory S. Weber, [Potential Innovations in Civil Discovery: Lessons for California from the State and Federal Courts](#), 2001.

Deposition in Out-of-State Litigation,¹⁸ which was enacted in 2008.¹⁹

While it was actively working on civil discovery, the Commission received numerous suggestions from interested persons, which the staff has kept. The Commission also identified other discovery topics it might address.

In 2016, the Commission directed the staff to examine a discovery topic suggested by then-Commissioner Capozzola related to depositions and prepare a list of other discovery topics suggested for study.²⁰ The Commission later suspended that work in light of a pending discovery-related bill (AB 383 (Chau)).²¹ After AB 383 was enacted into law with a sunset date of January 1, 2023,²² the Commission decided to suspend its work on discovery-related issues until after the sunset of AB 383.²³

Venue in Civil Case (2007)

In 2007, the Calendar of Topics was revised at the Commission's request to add a study of "(w)hether the law governing the place of trial in a civil case should be revised."²⁴ That request was prompted by an unpublished decision in which the Second District Court of Appeal noted that Code of Civil Procedure Section 394, a venue statute, was a "mass of cumbersome phraseology," and that there was a "need for revision and clarification of the venue statutes."²⁵ The court of appeal was sufficiently concerned about this matter to direct its clerk to send a copy of its opinion to the Office of Legislative Counsel, which in turn alerted the Commission.

¹⁸ 37 Cal. L. Revision Comm'n Reports [99](#) (2007).

¹⁹ 2008 Cal. Stat. ch. 231 ([AB 2193](#) (Tran)).

²⁰ See Minutes ([Dec. 2016](#)), p. 3.

²¹ See Minutes ([Aug. 2017](#)), p. 7; Memorandum [2017-26](#), pp. 22-24.

²² 2017 Cal. Stat. ch. 189 ([AB 383](#) (Chau)).

²³ Minutes ([Dec. 2018](#)), p. 3. It does not appear that the sunset date has been extended.

²⁴ 2007 Cal. Stat. res. ch. 100 ([ACR 35](#) (Evans)).

²⁵ See Memorandum [2005-29](#), Exhibit 15, p. 59.

EXHIBIT 3. CARRYOVER SUGGESTIONS FROM PREVIOUS YEARS

Currently, the Commission has no carryover items from previous years.²⁶

²⁶ See Minutes ([Sept. 2022](#)), p. 3; Memorandum [2022-42](#), EX pp. 8-14.

Subject: RE: California Probate Code Section 7250, Law Revision Committee Comments
Date: Friday, March 15, 2024 at 4:03:22 PM Pacific Daylight Time
From: bjpelligrini@sbcglobal.net
To: Kristin Brie Burford

Thanks.

Perhaps you can answer another question for me, as I have not been able to find a clear answer. Does a California state court exceed its jurisdiction when the petitioner lacks standing, and if so, is this lack of standing fatal to a judgment as it would be in federal court?
Bev.

From: Kristin Brie Burford <kburford@clrc.ca.gov>
Sent: Friday, March 15, 2024 3:19 PM
To: Beverly Pellegrini <bjpelligrini@sbcglobal.net>
Subject: FW: California Probate Code Section 7250, Law Revision Committee Comments

Dear Beverly,

I can present your suggestions for probate reform to the Commission when it undertakes its annual review of New Topics later this year. You will receive a copy of that memo when it is prepared and information about the Commission meeting where it will be considered.

I do want to note, however, that the Commission's resources have been largely consumed with assignments from the Legislature in recent years, so it is not clear whether the Commission will have resources to take on a new project.

Thank you,
Kristin

From: bjpelligrini@sbcglobal.net <bjpelligrini@sbcglobal.net>
Date: Thursday, March 7, 2024 at 10:22 AM
To: Kristin Brie Burford <kburford@clrc.ca.gov>
Subject: RE: California Probate Code Section 7250, Law Revision Committee Comments

Dear Kristin,

This previous section 9868 appears to be now covered by Section 850 of the Probate code under the General Provisions Section rather than the Section pertaining to the Administration of Decedent's Estates.

There should be a statute to cover the problem raised in Barefoot v. Jennings, in which the California Supreme Court specifically declined to address whether an heir who was never a beneficiary to a trust has standing to make a claim under Probate Code 17200.

Standing rules should be further clarified. A contingent remainder of a credit shelter trust that does not come into play until the surviving spouse's passing when such distribution to fund the credit

shelter trust is subject to revocability. In other words, when irrevocable tax trusts are for the benefit of the surviving spouse during the surviving spouse's lifetime that are either subject to full withdrawal rights (Probate Code 18502) or provide no distribution after the surviving spouse's passing (i.e., no stated beneficiary after the surviving spouse's passing, thereby subjecting the trust to be an illegal trust for lack of a beneficiary – Probate Code 15205), respectively, a contingent remainder of either trust would have no beneficiary interest that was not subject to termination by the surviving spouse during her lifetime. By providing persons with such tenuous interests would not only impede the Settlor's intent but would also impede the Settlor's and surviving spouse's ability to use her property for her benefit, especially when this Settlor/surviving spouse contributed her separate property to the trust upon its creation.

People use trusts to avoid probate. When a revocable trust is created by the decedent and the decedent's spouse during the decedent's and surviving spouse's joint lifetimes, i.e., both lifetimes taken together until the surviving spouse passes, distributions of this trust for the benefit of the surviving spouse are not subject to a probate court's jurisdiction. There is absolutely no right to be given to a future contingent remainder or unvested beneficiary any rights to sue in order to force the surviving spouse to utilize these assets intended for the surviving spouse's support and well being to be usurped in litigation. This malfeasance must be stopped as courts are undertaking conversion of assets to protect contingent remainders with no vested interests and are using these assets to pay the contingent remainder's creditors (also a violation of spendthrift provisions in a trust that permit no distribution to any future beneficiary until those monies are received.)

Along with standing rules, the Probate code should contain provisions on mandatory joinder of indispensable parties of which all other beneficiaries are indispensable parties when any litigation may impair their future rights when any single beneficiary attempts to bring an action to court on such tenuous interests as described above.

Also, perhaps you could comment please on the use of the demurrer in California instead of a general motion to dismiss. By presuming all facts are true in a complaint, the demurrer is a very high hurdle to overcome by a defendant. In probate matters, this leads to an adage of he who lies first, lies best. One should not have to be expected to be first to run to the courts to protect one's rights as a defendant who has committed no wrongdoing is forced to maintain an action for which the petitioner has no rights except those claimed by fraud.

Thank you for the materials.

Very truly yours,
Bev.

From: Kristin Brie Burford <kburford@clrc.cagov>

Sent: Thursday, March 7, 2024 8:40 AM

To: bjpellegrini@sbcglobal.net

Subject: Re: California Probate Code Section 7250, Law Revision Committee Comments

Dear Beverly,

I am not sure why the proposed legislative language was not included in the Commission

recommendation I linked below. I expect that may have been due to the length of the material (the entire Probate Code). I believe that the recommendation was enacted as Chapter 79 of the Statutes of 1990. You can find the language of that enactment in the following document: https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1990/90Vol1_Chapters.pdf (see pg. 819-820 for Section 9868).

Thank you,
Kristin

From: bjpellegrini@sbcglobal.net <bjpellegrini@sbcglobal.net>
Date: Wednesday, March 6, 2024 at 9:06 PM
To: Kristin Brie Burford <kburford@clrc.ca.gov>
Subject: RE: California Probate Code Section 7250, Law Revision Committee Comments

Dear Kristin,
In a search through the documents listed, there are no statutes for the referenced 9868 in the old code or the new code.
Perhaps the Law Commission should consider editing these comments as the citation is of limited value and generates confusion.

Bec.

From: Kristin Brie Burford <kburford@clrc.ca.gov>
Sent: Wednesday, March 6, 2024 3:39 PM
To: bjpellegrini@sbcglobal.net
Subject: Re: California Probate Code Section 7250, Law Revision Committee Comments

Hi Beverly,

I am not familiar with the history of those provisions. While Section 9868 was part of a [Law Revision Commission recommendation](#), it does not appear that the Law Revision Commission was involved with any later changes to that section (see results for [Sections Affected by Commission Recommendations](#) for 9868).

Thank you,
Kristin

From: bjpellegrini@sbcglobal.net <bjpellegrini@sbcglobal.net>
Date: Wednesday, March 6, 2024 at 12:53 PM
To: Kristin Brie Burford <kburford@clrc.ca.gov>
Subject: re: California Probate Code Section 7250, Law Revision Committee Comments

Dear Kristin:
In reviewing Code Section 7250 of the California Probate Code and a similar section 10264 (orders regarding the sale of personal property), the Law Revision Committee comments on the former, i.e., Section 7250, references Probate Code Section 9868, order for execution of conveyance or transfer of

property claimed to belong to the decedent or other person. Section 9868, however, does not presently exist in the Probate Code.

Could you please provide me with the historical background of this statute and inform me as to whether Section 9868 was replaced in another section of the Probate Code or other code sections?

As I am working on a petition, it would be most helpful if you could reply as soon as possible

Very truly yours,
Beverly Pellegrini
Telephone: 559-237-8189
Email: bjpellegrini@sbcglobal.net