

MEMORANDUM 2026-32

Writ Procedures: Introduction of Study

The Legislature passed ACR 168 (Pacheco) on July 15, 2026, part of which directs the Commission¹ to study “whether the Code of Civil Procedure should be revised, including, but not limited to, whether the statutes governing writ procedures should be revised.”² This Memorandum introduces this new study by describing the staff’s initial research approach and findings to date.

This study originated from a suggestion submitted by Commissioner Carillo on behalf of Justice Daniel H. Bromberg of the Sixth District Court of Appeal.³ Justice Bromberg observed that California’s civil writ practice,⁴ particularly the use of writs in discretionary interlocutory review,⁵ is confusing, inefficient, and inconsistently applied.⁶ Therefore, he urged the Commission to “study the practice and consider whether to modernize, clarify, and reform the State’s process for discretionary interlocutory appeals.” Justice Bromberg also noted that, beyond the use of writs for discretionary interlocutory review, other areas of writ practice may also warrant Commission review, including the law governing writs of habeas corpus and writs of supersedeas.⁷ The Commission approved this topic for civil

¹ 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.

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.

² [2026 Cal. Stat. ch. 148](#) (ACR 168, Pacheco).

³ Memorandum [2026-2](#), EX 1-2.

⁴ From Fourth District Court of Appeal, [Handout on Writs](#):

A writ is a directive from [an appellate court] to a trial court, an administrative agency, or a person to do something or to stop doing something. Unlike appeals, which are heard as a matter of right, writ petitions are generally heard as a matter of discretion, and they are governed by equitable principles. Appellate courts generally grant writ relief only when the petitioner (1) has no other plain, speedy and adequate remedy in the ordinary course of law; and (2) will suffer irreparable injury if such relief is not granted.

⁵ Memorandum [2026-2](#), EX 1-2. A “discretionary interlocutory appeal” is “[a]n appeal that occurs before the trial court’s ruling on the entire case,” which the judge may rule on at their choice. *Appeal*, Black’s Law Dict. (12th ed. 2024).

⁶ Memorandum [2026-2](#), EX 1-2.

⁷ *Id.* at EX 2. A writ of habeas corpus is a writ most frequently used to ensure a person’s detention or imprisonment is not illegal. Habeas Corpus, Black’s Law Dict. (12th ed. 2024). A writ of supersedeas stays proceedings in a lower court to hold the case in status quo pending the appeal. *Willingham v. Pecora* (1940) 40 Cal.App.2d 123, 124. A study related to writs of habeas corpus would be under the jurisdiction of the Committee on the Revision of the Penal Code.

writs and requested it be added to the Commission’s proposed resolution, which was passed by the Legislature.⁸

The staff has begun conducting preliminary research by consulting with stakeholders. The staff first met with Justice Bromberg to obtain additional background on his reasons for suggesting the topic and discussed directions for further research. The staff has also started researching the history and development of the applicable Code of Civil Procedure sections, with the assistance of the California State Library.

The staff has also begun interviewing practitioners about their writ experiences. The practitioners interviewed so far have echoed Justice Bromberg’s concerns and made suggestions for Commission study. For example, one practitioner observed that modernizing the terminology throughout the writ statutes would make the statutes easier to understand. The practitioner suggested that the terminology could be revised to more clearly describe the function and purpose of each writ, rather than relying on historical terms that may be unfamiliar to litigants, such as “writ of supersedeas.” Another practitioner stated that writ procedures should be streamlined to increase access to justice. The practitioner identified family law cases as an example, noting that litigants may be unable to seek writ review because the writ process is complex, costly, and difficult to navigate without significant legal resources.

These initial meetings have underscored that the statutory framework governing writ practice is broader and more complicated than it may first appear. Accordingly, the staff cannot recommend defining either the precise scope of the study or a proposed research plan at this stage. Instead, the staff recommends continuing initial research into the historical development of the writ statutes, their operation under existing law, and their interaction with other statutory schemes alongside continued outreach to judges, justices, court staff (including writ attorneys⁹ and court leadership), practitioners, the Judicial Council, the California Judges Association, the California Lawyers Association, the California Academy of Appellate Lawyers, staff to the Senate and Assembly Judiciary Committees, and other interested stakeholders.

After completing this preliminary phase, the staff proposes to return to the Commission with recommendations for the appropriate scope of the study and a research plan.

⁸ [Minutes](#) (January 2026) p. 3; [2026 Cal. Stat. ch. 148](#) (ACR 168, Pacheco).

⁹ Writ attorneys work for an appellate court and assist the court in reviewing writ petitions. *See* Court of Appeal, Sixth Appellate District, [Internal Operating Practices](#).

Does the Commission agree with this proposed approach? Does the Commission have any suggestions for additional outreach?

Respectfully submitted,

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