

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

ACR 24 (Chau)  
Version: February 8, 2021  
Hearing Date: June 29, 2021  
Fiscal: Yes  
Urgency: No  
ME

**SUBJECT**

California Law Revision Commission: studies

**DIGEST**

This measure, sponsored by the California Law Revision Commission (CLRC), grants approval to the CLRC to continue its study of 13 designated topics that the Legislature previously authorized or directed the CLRC to study. The measure also authorizes and requests the CLRC to study and report on 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, or a local emergency proclaimed by a local governing body or official..

**EXECUTIVE SUMMARY**

The California Law Revision Commission (CLRC) was created in 1953 and tasked with the responsibility for a continuing substantive review of California statutory and decisional law. The CLRC studies the law in order to discover defects and make related recommendations to the Legislature for needed reforms.

The CLRC's enabling statute recognizes two types of topics the CLRC is authorized to study: (1) those that the CLRC identifies for study and lists in the Calendar of Topics that it reports to the Legislature; and (2) those that the Legislature assigns to the CLRC directly, by statute or concurrent resolution. Once the CLRC identifies a topic for study, it cannot begin to work on the topic until the Legislature, by concurrent resolution, authorizes the CLRC to conduct the study. Direct legislative assignments have become much more common in recent years, and many of the CLRC's recent studies were directly assigned by the Legislature.

This measure, sponsored by the CLRC, continues the authorization of the CLRC's studies on 13 topics and authorizes and requests the CLRC to study and report on 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, or a local emergency proclaimed by a local governing body or official. There is no support or opposition to this measure.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Authorizes the CLRC to study topics approved by concurrent resolution of the Legislature. (Gov. Code Sec. 8293.)
- 2) Prohibits an employee or member of the CLRC, with respect to any proposed legislation concerning matters assigned to the CLRC for study, to advocate for the passage or defeat of the legislation by the Legislature or the approval or veto of the legislation by the Governor or appear before any committee of the Legislature unless requested to do so by the committee or its chairperson. (Gov. Code Sec. 8288.)

This bill:

- 1) Makes the following findings:
  - a) That the CLRC is authorized to study topics set forth in the calendar contained in its report to the Governor and the Legislature that have been or are thereafter approved for study by concurrent resolution of the Legislature, and topics that have been referred to the Commission for study by concurrent resolution of the Legislature or by statute; and
  - b) That the CLRC, in its annual report covering its activities for 2019 and 2020, recommends continued study of 13 topics, all of which the Legislature has previously authorized or directed the CLRC to study, and the addition of one new topic of study.
- 2) Resolves that the Legislature approves for continued study by the CLRC the topics listed below, all of which the Legislature has previously authorized or directed the Commission to study:
  - a) 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.

- b) Whether the California 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.
- c) 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.
- d) 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.
- e) Whether the law relating to discovery in civil cases should be revised.
- f) Whether the Evidence Code should be revised.
- g) Whether the law relating to arbitration, mediation, and other alternative dispute resolution techniques should be revised.
- h) Whether there should be changes to administrative law.
- i) Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification.
- j) 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.
- k) Whether the law governing the place of trial in a civil case should be revised.
- l) 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.
- m) Whether to 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.

- 3) Resolves that the Legislature approves the addition of the following topic for study by the CLRC: 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 Government Code Section 8625, or a local emergency proclaimed by a local governing body or official under Government Code Section 8630. Requires that the CLRC, before beginning a study under this authority, to provide notice to legislative leadership and any legislative policy committee with jurisdiction over the proposed study topic and to consider any formal or informal feedback received in response to that notice.
- 4) Resolves that before commencing work on any project within the calendar of topics the Legislature has authorized or directed the CLRC to study, the CLRC shall submit a detailed description of the scope of work to the chairs and vice chairs of the Assembly Committee on Judiciary and the Senate Committee on Judiciary, and any other policy committee that has jurisdiction over the subject matter of the study, and if during the course of the project there is a major change to the scope of work, submit a description of the change.

### COMMENTS

#### 1. Stated need for the measure

According to the author:

At least once per session, the Legislature considers a concurrent resolution to authorize topics for study by the California Law Revision Commission. ACR 24 was introduced for that purpose.

In addition to reauthorizing previously approved study topics, ACR 24 would authorize one new topic for Commission study – whether the law should be revised to provide appropriate flexibility during emergency conditions.

The Commission's request for this additional authority was prompted by its own experience under the Bagley-Keene Open Meeting Act. In order to comply with pandemic stay-at-home orders, the Commission decided to conduct its meetings entirely by teleconference. However, Bagley-Keene requires that teleconference meetings include an in-person component. That rule would have made it unlawful for the Commission to meet entirely by teleconference. Fortunately, the in-person requirement was waived by Executive Order N-29-20. Nevertheless, the Commission realized that similar statutory flexibility might be needed in other areas of law.

**SUPPORT**

None known

**OPPOSITION**

None known

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation:

ACR 173 (Gallagher, Res. Ch. 26, Stats. 2020) authorized the CLRC to continue its study of 13 topics.

SCR 91 (Roth, Res. Ch. 158, Stats. 2018) granted approval to the CLRC to continue its study of designated topics that the Legislature previously authorized or directed the CLRC to study; authorized and requested the CLRC to study and report on topics relating to hazardous waste control and hazardous substances; provided that before commencing work on any project within the list of topics authorized for study by the Legislature, the CLRC shall submit a detailed description of the scope of work to the Senate and Assembly Committees on Judiciary and any legislative policy committee with jurisdiction over the study's subject matter; and expressly allowed the CLRC to provide copies of its recommendations to members of a legislative policy committee and invited CLRC staff to hearings for the purpose of explaining recommendations and answering questions from committee members.

ACR 148 (Chau, Res. Ch. 150, Stats. 2016) authorized the CLRC to continue its studies on whether specified laws should be revised; authorized an additional study of the California Public Records Act; provided that before commencing work on any project within the list of topics authorized for study by the Legislature, the CLRC shall submit a detailed description of the scope of work to the Senate and Assembly Committees on Judiciary and any legislative policy committee with jurisdiction over the study's subject matter; and expressly allowed the CLRC to provide copies of its recommendations to members of a legislative policy committee and invite CLRC staff to hearings for the purpose of explaining recommendations and answering questions from committee members.

SCR 54 (Padilla, Res. Ch. 115, Stats. 2013) authorized the CLRC report on and prepare recommended legislation concerning statutes governing access by state and local government agencies to customer information from communications service providers.

AB 567 (Wagner, Res. Ch. 15, Stats. 2013) repealed the requirement that the CLRC make the decennial recommendations, and retained the CLRC's general authority to study, review, and make recommendations regarding the enforcement of judgments law.

ACR 125 (Papan, Res. Ch. 167, Stats. 2002) authorized the CLRC to study, report on, and prepare recommended legislation concerning the issue of financial privacy to address protection and control of a consumer's personal information and provide both administrative and civil penalties.

The following is a list of the prior annual authorizing resolutions for the CLRC:

SCR 83 (Monning, Res. Ch. 63, Stats. 2014)

ACR 98 (Wagner, Res. Ch. 108, Stats. 2012) *See* Comment 4a, b, and c.

ACR 49 (Evans, Res. Ch. 98, Stats. 2009) *See* Comment 4a.

ACR 35 (Evans, Res. Ch. 100, Stats. 2007)

SCR 15 (Morrow, Res. Ch. 1, Stats. 2006)

SCR 42 (Campbell, Res. Ch. 122, Stats. 2005)

SCR 4 (Morrow, Res. Ch. 92, Stats. 2003)

ACR 123 (Wayne, Res. Ch. 166, Stats. 2002)

SCR 13 (Morrow, Res. Ch. 78, Stats. 2001)

ACR 17 (Wayne, Res. Ch. 81, Stats. 1999)

SCR 65 (Kopp, Res. Ch. 91, Stats. 1998)

SCR 3 (Kopp, Res. Ch. 102, Stats. 1997)

SCR 43 (Kopp, Res. Ch. 38, Stats. 1996)

**PRIOR VOTES:**

Assembly Floor (Ayes 78, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)

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