

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

AB 1984 (Maienschein)
Version: June 26, 2020
Hearing Date: July 30, 2020
Fiscal: Yes
Urgency: No
AM

SUBJECT

Courts

DIGEST

This bill is the latest in a series of amendments to statutes made obsolete by trial court restructuring.

EXECUTIVE SUMMARY

California overhauled its court system through a series of reforms over 20 years ago resulting in the existing superior court system. After the reforms were implemented, references to outdated terms and policies remained throughout the codes. The Legislature, recognizing this issue, assigned the California Law Revision Commission (CLRC) with the task of providing recommendations to update the codes in light of the reforms made and, over the years, has enacted almost all of the CLRC's recommendations. This non-controversial bill is the latest in a series of bills to continue cleaning up the codes. The bill, among other things, removes obsolete terms and makes changes to reflect the modern court system by deleting outdated references to municipal courts, removing references to marshals and constables, and removing references to county boards of supervisors and replacing them with appropriate terms.

The bill is author sponsored. There is no known support or opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides, on and after July 1, 1997, that the state bears sole responsibility for the funding of court operations and requires the state to be responsible for the cost of court operations incurred by the trial courts. (Gov.C. § 77200.)

- 2) Specifies, beginning July 1, 1997, that no county shall be responsible for funding court operations. (Gov. Code §§ 77201 & 70311.)
- 3) Requires the CLRC to determine whether any provisions of law are obsolete as a result of trial court restructuring and to recommend to the Legislature any amendments to remove those obsolete provisions. (Gov.C. § 71674.)
- 4) Contains various provisions relating to the responsibilities of specific county board of supervisors for court facilities and operations. (Gov.C. §§ 73301-74988.)
- 5) Establishes the Task Force on Court Facilities and requires the task force to provide reports to the Legislature regarding determinations of acceptable standards for construction, renovation, and remodeling of court facilities. (Gov.C. §§ 77650 et seq.)
- 6) Establishes the Task Force on Trial Court Employees to provide specified reports to the Legislature. (Gov. C. §§ 77600-77606)
- 7) Requires the Judicial Council to establish a task force on county law libraries to identify the needs related to county law library operations and facilities and to make recommendations for funding county law library operations, facility improvements, and expansion by January 1, 2005. (Gov.C. § 70394.)
- 8) Authorizes San Bernardino County to charge a surcharge filing fee in addition to specified uniform filing fees to supplement the Courthouse Construction Fund, as provided. (Gov.C. § 70624.)

This bill:

- 1) Replaces references to county board of supervisors or affiliated entities with references to courts or superior courts, as appropriate, made obsolete by the shift to state funding of trial court operations and to conform the codes to existing court practices and operations.
- 2) Eliminates obsolete provisions to the Task Force on Trial Court Employees, the Task Force on Trial Court Facilities, and the task force on county law libraries.
- 3) Eliminates references to municipal courts, which no longer exist, and obsolete provisions related to constables and marshals.
- 4) Repeals an existing provision of law relating to the authority of San Bernardino County to charge a surcharge filing fee on January 1, 2026.

- 5) Provides that if a right, privilege, duty, authority, or status is based on a provision of law repealed by this bill, and if a statute, order, rule of court, memorandum of understanding, or other legally effective instrument provides that the right, duty, authority, or status continues for a period beyond the effective date of the repeal, that provision of law continues in effect for that purpose, notwithstanding its repeal by this bill.
- 6) Provides that any section of any act enacted by the Legislature during the 2020 calendar year, other than a section of the annual maintenance of the codes bill or another bill with a subordination clause, that takes effect on or January 1, 2021, that amends a section being amended by this bill is to prevail over this act.

COMMENTS

1. Stated need for the bill

The author writes:

The purpose of AB 1984 is to revise provisions of law that have become obsolete as a result of trial court restructuring. This would improve the law by making the codes correctly reflect current conditions.

2. Trial court restructuring and prior CLRC recommendations to update codes

Prior to the overhaul of the trial court system, individual counties managed California's trial courts and various branches thereof with limited jurisdiction, such as municipal courts and justice courts. In 1994, justice courts were merged with municipal courts by voter approval of Senate Constitutional Amendment No. 7 (Dills, Res. Ch. 131, Stats. 1994; Prop. 191, gen. elec. (Nov. 8, 1994)). Several years later, the California Constitution was amended again by voter approval of Senate Constitutional Amendment No. 4 to authorize counties to unify into one superior court (Lockyer, Res. Ch. 36, Stats. 1996; Prop. 220, prim. elec. (Jun. 2, 1998)). By 2001, all 58 county courts completed unification.¹

Significant statutory restructuring of the state's trial court system was enacted by the Lockyer-Isenberg Trial Court Funding Act of 1997, which required that the state assume full responsibility for funding trial court operations. Following the consolidation of trial court operations, the Trial Court Unification Act unified the justice, municipal, and superior courts, unifying all of the courts or superior courts for California's 58 counties. Further restructuring continued with the Trial Court Employment Protection and Governance Act (TCEPGA), which transferred control of trial court employment to the

¹*California Trial Courts Effective Dates of Unification*, Cal. Courts (Jan. 29, 2001) available at <https://www.courts.ca.gov/documents/unidate.pdf> (as of Jul. 5, 2020)

courts. When TCEPGA was enacted, the Legislature also directed the CLRC to study the statutes affected by the acts implementing court reform and make recommendations to the Legislature to repeal statutes made obsolete by the trial court funding reform, trial court unification, and trial court employment reform. (Gov.C. § 71674). The CLRC has made several recommendations over the years and almost of all them have been adopted by the Legislature.²

3. Recommendations of the CLRC being adopted by this bill

In continuing with its mandate, the CLRC has proposed several changes to the Legislature for adoption to continue cleaning up the codes as a result of prior reforms. This bill seeks to enact the recommendations made by the CLRC in the following reports: *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities* (May 2019), *Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees* (Feb. 2019), *Trial Court Restructuring Clean-Up: Obsolete References to Marshals* (Sept. 2019), *Trial Court Restructuring Clean-Up: Obsolete "Constable" References* (Oct. 2018).³

a. Deleting outdated references to municipal courts

A majority of the changes made by the bill delete outdated references to municipal courts, which no longer exist since they were unified with the superior courts.⁴ Most of these deletions are found in the repeal of various articles in Chapter 10 of Title 8 of the Government Code. Since municipal courts were governed by counties prior to unification, the codes contained separate provisions governing municipal courts for each county. These provisions include specific references to the operation and timing of court sessions; however, the CLRC found the provisions to be obsolete due to the fact the Legislature enacted Section 69470 of the Government Code that authorizes superior courts to determine the operation and timing of court sessions and it expressly applies over any other provision of law.⁵

b. Clarifying role of county board of supervisors and removing obsolete references

The bill also updates references to county board of supervisors being responsible for court facilities since these facilities now belong to the state. For example, changes are made to statutes that specify where court facilities are to be located in certain counties and mandates on the county board of supervisors to provide jury deliberation rooms and the Flag of the United States of America and the Bear Flag of California.⁶ The bill changes references to the superior court or court where appropriate and deletes

² See Prior Legislation.

³ All four reports are available at <http://clrc.ca.gov/J1405.html> (as of Jul. 5, 2020).

⁴ *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities*, 46 Cal. L. Revision Comm'n Reports 25 (2019).

⁵ *Id.* at 40.

⁶ *Id.* at 41 & 52.

references that are obsolete. The CLRC noted changes needed to some county-specific provisions relating to the Courthouse Construction Fund and recommended the repeal of two county-specific statutes that the CLRC noted were obsolete.⁷ The CLRC recommended repealing a county-specific provision related to the authority of San Bernardino County to charge a surcharge filing fee to be deposited into the Courthouse Construction Fund on January 1, 2026, because there are ongoing discussions between the county and Judicial Council and adding the repeal clause ensures that there is time to allow for a resolution to any outstanding issues but also ensures that the section is eventually repealed.⁸

c. Other clarifying changes

In addition to the above described changes, the bill deletes provisions relating to the Task Force on Trial Court Facilities⁹ and the Task Force on Trial Court Employees,¹⁰ as both of these task forces completed their required work and submitted all reports due. The CLRC also recommends repealing the Task Force on County Law Libraries as it no longer exists and its report was due in 2005.¹¹ The bill also removes outdated references to constables and marshals,¹² which provided security to justice courts and municipal courts respectively, updates various cross references, and provides language that the bill will not chapter out any other bill, as specified.

The bill seems to merely delete obsolete provisions from existing law, which is bolstered by the review of the CLRC and the conclusions in the CLRC reports. However, in the off-chance that the bill repeals a non-obsolete provision of law, the bill specifically provides that a person's rights are protected and continue into effect notwithstanding the repeal.

SUPPORT

None known

OPPOSITION

None known

⁷ *Id.* at 55-56.

⁸ *Id.* at 56.

⁹ *Id.* at 49.

¹⁰ *Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees*, 46 Cal. L. Revision Comm'n Reports 1 (2019).

¹¹ Fn. 5 *supra* at 57-58.

¹² *Trial Court Restructuring Clean-Up: Obsolete References to Marshals*, 46 Cal. L. Revision Comm'n Reports 105 (2019); *Trial Court Restructuring Clean-Up: Obsolete "Constable" References*, 45 Cal. L. Revision Comm'n Reports 441 (2018).

RELATED LEGISLATION

Pending Legislation:

None known

Prior Legislation:

AB 1529 (Dickinson, Ch. 470, Stats. 2012) enacted recommendations by the CLRC to correct obsolete statutes as a result of trial court restructuring.

AB 2767 (Committee on Judiciary, Ch. 212, Stats. 2010) enacted changes to various provisions of law, including recommendations by the CLRC to correct obsolete statutes as a result of trial court restructuring.

AB 2166 (Tran, 2008) would have enacted CLRC recommendations regarding appellate procedure for appeals from orders of the superior courts on motions to vacate bail forfeitures. The bill failed to pass out of the Assembly Public Safety Committee.

SB 1182 (Ackerman, Ch. 56, Stats. 2008) enacted recommendations by the CLRC to correct obsolete statutes as a result of trial court restructuring.

SB 649 (Committee on Judiciary, Ch. 43, Stats. 2007) enacted recommendations by the CLRC to correct obsolete statutes as a result of trial court restructuring.

SB 79 (Committee on Judiciary, Ch. 149, Stats. 2003) enacted recommendations by the CLRC to correct obsolete statutes as a result of trial court restructuring.

SB 1316 (Committee on Judiciary, Ch. 784, Stats. 2002) enacted recommendations by the CLRC to correct obsolete statutes as a result of trial court restructuring.

PRIOR VOTES:

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 18, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)
