

#J-1406.1

STATE OF CALIFORNIA

# CALIFORNIA LAW REVISION COMMISSION

*Pre-Print* RECOMMENDATION

Statutes Made Obsolete by Trial Court Restructuring  
(Part 7): Completion of Studies Under  
Government Code Section 70219

**Note:** This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

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## SUMMARY OF RECOMMENDATION

Government Code Section 70219 directs the Judicial Council and the Law Revision Commission to undertake certain studies relating to judicial administration. The Judicial Council and the Commission have completed those studies as assigned. Section 70219 is thus obsolete and the Commission recommends that it be repealed.

This recommendation was prepared pursuant to Government Code Section 71674 and Resolution Chapter 158 of the Statutes of 2018.



TRIAL COURT RESTRUCTURING CLEAN-UP:  
COMPLETION OF STUDIES UNDER  
GOVERNMENT CODE SECTION 70219

1 In its 1998 report on revision of the codes to implement trial court unification, the Law  
2 Revision Commission identified a number of topics for future study.<sup>1</sup> The Legislature  
3 subsequently enacted Government Code Section 70219, which directs the Judicial  
4 Council and the Commission to undertake those studies and share responsibility for them  
5 in the manner suggested in the Commission’s report.<sup>2</sup>

6 The Judicial Council and the Commission conducted the assigned studies as directed  
7 and all of the work is complete. Section 70219 thus appears to be obsolete and ready for  
8 repeal, as explained in more detail below.

9 **Assigned Studies and Work Performed**

10 The studies assigned by Section 70219 fall into the following categories:

- 11 • A reexamination of the three-track system for civil cases, to be jointly  
12 conducted by the Judicial Council and the Commission.
- 13 • Studies primarily assigned to the Judicial Council, to conduct in consultation  
14 with the Commission.
- 15 • Studies primarily assigned to the Commission, to conduct in consultation  
16 with the Judicial Council.

17 Each category is described and discussed in order.

18 ***Joint Study of the Three-Track System for Civil Cases***

19 In its report on revision of the codes to implement trial court unification, the  
20 Commission sought to preserve existing procedural distinctions between traditional

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1. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51 (1998) (hereafter, “TCU: Revision of Codes”). The Commission prepared that recommendation pursuant to 1997 Cal. Stat. res. ch. 102.

2. Government Code Section 70219 provides:

70219. On submission by the California Law Revision Commission of its report to the Governor and the Legislature pursuant to Resolution Chapter 102 of the Statutes of 1997 recommending statutory changes that may be necessitated by court unification, *the Judicial Council and the California Law Revision Commission shall study and make recommendations to the Governor and the Legislature on the issues identified in the report as appropriate for future study*, including consideration of the experience in counties in which the courts have unified. *Each agency shall assume primary or joint responsibility for the studies and recommendations as outlined in the report*, and each agency shall consult with the other in the studies and recommendations. This section does not limit any authority of the Judicial Council or the California Law Revision Commission to conduct studies and make recommendations authorized or directed by law.

(Emphasis added.) This provision was first enacted in 1998. See 1998 Cal. Stat. ch. 931, § 257. It was inadvertently repealed by 2001 Cal. Stat. ch. 745, § 113, but reenacted without substantive change by 2002 Cal. Stat. ch. 784, § 340. See Gov’t Code § 70219 Comment (2002).

1 superior court cases (now known as unlimited civil cases), traditional municipal court  
2 cases (now known as limited civil cases), and small claims cases (a special category of  
3 limited civil cases).<sup>3</sup> The Commission “strongly recommended,” however, that the  
4 Legislature “direct a study reexamining this three-track system and its underlying policies  
5 in light of unification.”<sup>4</sup>

6 The Commission explained that such a study “may entail elimination of unnecessary  
7 procedural distinctions, reassessment of the jurisdictional limits for small claims  
8 procedures and economic litigation procedures, and reevaluation of which procedures  
9 apply to which type of case.”<sup>5</sup> The Commission recommended that this study be jointly  
10 conducted by the Judicial Council and the Commission.<sup>6</sup>

11 By enacting Section 70219, the Legislature approved that approach. The section  
12 specifically directs the Judicial Council and the Commission to conduct the studies  
13 identified in the Commission’s report, assume primary or joint responsibility for those  
14 studies as outlined in that report, and consult with each other in conducting the assigned  
15 studies.<sup>7</sup>

16 As directed, the Judicial Council and the Commission jointly reexamined the three-  
17 track system for civil cases. In particular, they conducted a project in which they  
18 identified and proposed to eliminate some unnecessary procedural differences between  
19 limited civil cases and unlimited civil cases.<sup>8</sup> The proposed legislation was enacted.<sup>9</sup>

20 The Judicial Council and the Commission also jointly studied the jurisdictional limits  
21 for a small claims case and a limited civil case. As a first step, the Judicial Council hired  
22 a consulting firm to conduct empirical research and prepare a background study  
23 summarizing its findings. Upon consideration of the consultant’s 2002 report,<sup>10</sup> the  
24 Commission prepared and widely circulated a tentative recommendation proposing to  
25 increase the jurisdictional limits for both types of cases.<sup>11</sup> The Commission received  
26 extensive input, but consensus among the stakeholders proved difficult to reach and work  
27 on the joint study stopped in early 2004.<sup>12</sup>

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3. See *TCU: Revision of Codes*, *supra* note 1, at 64-65, 82.

4. *Id.* at 82.

5. *Id.* at 82-83.

6. *Id.* at 83.

7. For the text of Section 70219, see *supra* note 2.

8. See *Unnecessary Procedural Differences Between Limited and Unlimited Civil Cases*, 30 Cal. L. Revision Comm’n Reports 443 (2000).

9. See Cal. Stat. ch. 812.

10. Policy Studies, Inc., *Report on the California Three-Track Civil Litigation Study* (July 31, 2002).

11. See Tentative Recommendation on *Jurisdictional Limits of Small Claims Cases and Limited Civil Cases* (Dec. 2002).

12. See CLRC Staff Memorandum 2004-3; First Supplement to CLRC Staff Memorandum 2004-3; CLRC Staff Memorandum 2004-40; CLRC Minutes (Feb. 2004), pp. 7-8; see also CLRC Staff Memorandum 2014-41, p. 9 (explaining that project was tabled a decade earlier, circumstances warranting reactivation of the project had not materialized, and “it seems reasonable to consider the matter closed.”).

1 Several bills modifying the jurisdictional limits for a small claims case have since been  
2 enacted.<sup>13</sup> The joint study by the Judicial Council and the Commission helped pave the  
3 way for those bills and related improvements (such as reforms relating to temporary  
4 judges, self-represented litigants, and litigants who do not speak English).<sup>14</sup> The Judicial  
5 Council took positions on and helped to shape the jurisdictional bills,<sup>15</sup> but the  
6 Commission stayed on the sidelines as required by its governing statute.<sup>16</sup>

7 The jurisdictional limit for a limited civil case remains unchanged.<sup>17</sup> Although some  
8 recent Judicial Council subgroups re-explored the possibility of revising that limit, they  
9 did not find sufficient support for such a reform.<sup>18</sup>

### 10 *Studies Primarily Assigned to the Judicial Council*

11 Under Section 70219, the following studies were primarily assigned to the Judicial  
12 Council, to conduct in consultation with the Commission:<sup>19</sup>

13 *Obsolete statutes relating to prior court and personnel restructurings.* The  
14 Commission's 1998 report cited two code sections to illustrate this problem.<sup>20</sup> Both of  
15 those provisions have since been repealed.<sup>21</sup>

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13. See 2005 Cal. Stat. ch. 600 (SB 422 (Simitian)); 2005 Cal. Stat. ch. 618 (AB 1459 (Canciamilla)); 2006 Cal. Stat. ch. 150, § 1 (AB 2455 (Nakanishi)); 2008 Cal. Stat. ch. 157, § 4 (SB 1432 (Margett)); 2011 Cal. Stat. ch. 64 (SB 221 (Simitian)).

14. See, e.g., 2005 Cal. Stat. ch. 600, § 1 (legislative findings referring to consultant's report for joint study); 2005 Cal. Stat. ch. 618, § 1 (same); Assembly Committee on Judiciary Analysis of AB 1459 (April 26, 2005), pp. 5-6 (referring to joint study); Assembly Committee on Judiciary Analysis of SB 411 (June 28, 2005), pp. 5-6 (same); CLRC Staff Memorandum 2004-40 (describing Judicial Council projects addressing concerns expressed in joint study); CLRC Staff Memorandum 2005-41 (discussing 2005 bills and impact of joint study); CLRC Staff Memorandum 2010-40, pp. 3-4 (discussing joint study follow-up projects, including expedited jury trials).

15. See, e.g., Senate Committee on Judiciary Analysis of AB 1459 (June 28, 2005), pp. 1, 5-6; Senate Committee on Judiciary Analysis of SB 221 (April 12, 2011), pp. 3-6.

16. See Gov't Code § 8288; see also CLRC Staff Memorandum 99-85, p. 2 ("The Commission does not take positions on bills; it speaks to the Legislature through its own recommendations and bills.").

17. See Code Civ. Proc. §§ 85, 86, 86.1.

18. See, e.g., <https://www.courts.ca.gov/documents/SPR18-11.pdf> (Judicial Council's invitation to comment on proposal by its Civil and Small Claims Advisory Committee to increase jurisdictional limit for limited civil cases from \$25,000 to \$50,000, as recommended by its Commission on Future of California's Court System); CLRC Staff Memorandum 2011-36, p. 4 & Exhibit p. 1 (describing ideas being explored by Judicial Council's Small Civil Cases Working Group).

19. See *TCU: Revision of Codes*, *supra* note 1, at 84-85.

20. See *id.* at 84 n.116 (citing Gov't Code §§ 71003, 71040.5).

21. See 2002 Cal. Stat. ch. 784 § 341 (SB 1316 (Committee on Judiciary)) (repealing Gov't Code § 71003); 2001 Cal. Stat. ch. 824, § 24 (AB 1700 (Steinberg)) (repealing Gov't Code § 71040.5); see also *Statutes Made Obsolete by Trial Court Restructuring: Part I*, 32 Cal. L. Revision Comm'n Reports 1, 308-09 (2002) (hereafter, "*TCR: Part I*") (recommending repeal of article containing Gov't Code § 71003).

1        *Superior court sessions, both general and special.* The Commission studied and made  
2 recommendations on this topic, with input from the Judicial Council and other  
3 stakeholders.<sup>22</sup> The proposed legislation was enacted.<sup>23</sup>

4        *Number of authorized commissioners and referees in a county in which the courts have*  
5 *unified.* In 2000, the Judicial Council co-sponsored the enactment of the Trial Court  
6 Employment Protection and Governance Act (“TCEPGA”).<sup>24</sup> Among other things, this  
7 legislation includes a code section that governs appointment of subordinate judicial  
8 officers (“SJOs”) after trial court unification.<sup>25</sup> Later, the Judicial Council studied the  
9 balance between judges and SJOs and made recommendations on conversion of SJO  
10 positions to judgeships.<sup>26</sup> Legislation on the matter was enacted.<sup>27</sup>

11        *Reorganization of statutes governing court fees.* The statutes governing court fees were  
12 standardized and reorganized through the enactment of the Uniform Civil Fees and  
13 Standard Fee Schedule Act of 2005.<sup>28</sup> They are now consolidated in a single chapter of  
14 the Government Code.<sup>29</sup>

15        *Eligibility of judges to serve on the small claims advisory committee.* This topic was  
16 addressed in a 1999 clean-up bill on trial court unification.<sup>30</sup> Among other things, that bill  
17 amended the provision governing the composition of the small claims advisory  
18 committee.<sup>31</sup>

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22. See *Statutes Made Obsolete by Trial Court Restructuring: Part 2*, 33 Cal. L. Revision Comm’n Reports 169, 175-76 (2003) (hereafter “*TCR: Part 2*”); see also CLRC Staff Memorandum 2001-2, Exhibit pp. 2-3 (AOC memorandum reporting on Judicial Council activities).

23. See 2003 Cal. Stat. ch. 79.

24. 2000 Cal. Stat. ch. 1010.

25. See Gov’t Code § 71622; see also *TCR: Part 1*, *supra* note 20, at 12 (TCEPGA “has established far-reaching provisions relating to subordinate judicial officers that eclipse much of existing law relating to authorization and appointment of subordinate judicial officers.”).

26. See Judicial Council, *Update of the Judicial Workload Assessment and New Methodology for Selecting Courts with Subordinate Judicial Officers for Conversion to Judgeships* (Feb. 23, 2007); Judicial Council, Subordinate Judicial Officer Working Group, *Subordinate Judicial Officers: Duties and Titles* (July 2002).

27. 2007 Cal. Stat. ch. 722, § 3 (AB 159 (Jones)) (adding Section 69615 to Gov’t Code); see also 2010 Cal. Stat. ch. 690, § 2 (AB 2763 (Committee on Judiciary)) (amending Gov’t Code § 69615); <https://www.courts.ca.gov/documents/csjo.pdf> (summarizing situation).

28. See 2005 Cal. Stat. ch. 75 (AB 145 (Committee on Budget)).

29. See Gov’t Code §§ 70600-70678.

30. See 1999 Cal. Stat. ch. 344, § 5 (SB 210 (Committee on Judiciary)); see also *Trial Court Unification Follow-Up*, 29 Cal. L. Revision Comm’n Reports 657, 658 (1999) (Appendix #5 to 1999-2000 Annual Report, 29 Cal. L. Revision Comm’n Reports 579 (1999)) (hereafter, “*TCU Follow-Up*”); CLRC Staff Memorandum 2001-2, Exhibit p. 5 (AOC memorandum reporting on Judicial Council activities).

31. See Code Civ. Proc. § 116.950 & Comment.



1        *Catalogue of cases within the appellate jurisdiction of the courts of appeal on June 30,*  
2 *1995. With the exception of death penalty cases, the courts of appeal have appellate*  
3 *jurisdiction “when superior courts have original jurisdiction in causes of a type within the*  
4 *appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes*  
5 *prescribed by statute.”<sup>32</sup> To aid in interpretation of this constitutional requirement, the*  
6 *Commission’s 1998 report raised the possibility of creating a catalogue of the types of*  
7 *cases that were within the appellate jurisdiction of the courts of appeal on June 30,*  
8 *1995.<sup>33</sup>*

9        As directed by the Legislature, the Judicial Council investigated this topic, in  
10 consultation with the Commission.<sup>34</sup> In mid-1999, the Appellate Advisory Committee of  
11 the Judicial Council concluded that “rather than constructing a catalogue in the abstract, it  
12 was best to wait for the issue to be ripe and better defined.”<sup>35</sup>

13        In 2001, the Commission revisited the concept of creating a catalogue.<sup>36</sup> This concept  
14 faded from consideration as the Judicial Council and the Commission explored broader  
15 ideas relating to appellate and writ review under trial court unification.<sup>37</sup>

16        The Commission circulated a tentative recommendation on the subject, which proposed  
17 a set of constitutional and statutory reforms, including deletion of the constitutional  
18 reference to “causes of a type within the appellate jurisdiction of the courts of appeal on  
19 June 30, 1995.”<sup>38</sup> The Judicial Council’s Ad Hoc Task Force on the Superior Court  
20 Appellate Divisions developed its own proposal, which took a different approach.<sup>39</sup>  
21 Neither approach gained traction and the efforts were eventually set aside.<sup>40</sup>

22        The Commission is not aware of any current interest in developing a catalogue of cases  
23 within the appellate jurisdiction of the courts of appeal on June 30, 1995. The lack of  
24 interest is likely due to the possibility of transferring, rather than dismissing, an appeal  
25 brought in the wrong court.<sup>41</sup>

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32. Cal. Const. art. VI, § 11 (emphasis added).

33. See *TCU: Revision of Codes*, *supra* note 1, at 84.

34. See, e.g., CLRC Staff Memorandum 99-31; First Supplement to CLRC Staff Memorandum 99-31; CLRC Staff Memorandum 99-73; CLRC Minutes (June 1999), p. 11; CLRC Minutes (Oct. 1999), p. 9.

35. CLRC Staff Memorandum 99-73, Exhibit p. 1.

36. See CLRC Staff Memorandum 2001-56, pp. 2-6.

37. See, e.g., materials collected at <http://www.clrc.ca.gov/J1310.html> (CLRC Study J-1310: *Appellate and Writ Review Under Trial Court Unification*).

38. See Tentative Recommendation on *Appellate and Writ Review Under Trial Court Unification* (Nov. 2001).

39. See Ad Hoc Task Force on the Superior Court Appellate Divisions, *Report to the Appellate Process Task Force on the Superior Court Appellate Divisions* (May 2001).

40. See CLRC Minutes (Nov. 2003), p. 8; see also CLRC Staff Memorandum 2003-38.

41. See, e.g., *People v. Nickerson*, 128 Cal. App. 4th 33, 26 Cal. Rptr. 3d 563 (2005) (ordering transfer of case from court of appeal to appellate division); Gov’t Code § 68915 (“No appeal taken to the Supreme Court or to a court of appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein, as if regularly appealed thereto.”); see also CLRC Staff

1 *Consolidation of jury commissioner functions for the courts in each county.* The  
2 Commission studied and made recommendations on this topic, with input from the  
3 Judicial Council and other stakeholders.<sup>42</sup> The proposed legislation was enacted.<sup>43</sup>

4 *Magistrate as judicial officer of the state or judicial officer of a particular court.*<sup>44</sup>  
5 Statutory clarification of this point was deemed unnecessary.<sup>45</sup> The Commission is not  
6 aware of any current concerns relating to this matter.

7 *Correction of county-specific statutes after unification in that county.* The Commission  
8 studied and made recommendations on this topic, with input from the Judicial Council  
9 and other stakeholders.<sup>46</sup> The proposed legislation was enacted.<sup>47</sup>

10 Pursuant to other sources of authority,<sup>48</sup> the Commission is continuing to review and  
11 make recommendations relating to statutes made obsolete by trial court restructuring,  
12 including county-specific statutes.<sup>49</sup> Section 70219's directive to study and correct  
13 county-specific statutes is no longer necessary.<sup>50</sup>

14 *Reexamination of the statutes governing jury selection.* The Commission studied and  
15 made recommendations on this topic, with input from the Judicial Council and other  
16 stakeholders.<sup>51</sup> The proposed legislation was enacted.<sup>52</sup>

#### 17 ***Studies Primarily Assigned to the Commission***

18 Under Section 70219, the following studies were primarily assigned to the  
19 Commission, to conduct in consultation with the Judicial Council:<sup>53</sup>

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Memorandum 2001-56, pp. 5-6 (discussing authority to transfer); CLRC Staff Memorandum 2001-2, Exhibit p. 6 (AOC memorandum reporting existence of consensus that “any problems occurring in this area could be resolved by transfer of an appeal filed in the wrong court to the appropriate court.”).

42. See *TCR: Part 2*, *supra* note 22, at 177-78.

43. See 2003 Cal. Stat. ch. 79.

44. See generally CLRC Staff Memorandum 1997-66, p. 23.

45. See CLRC Staff Memorandum 2001-2, Exhibit pp. 6-7 (AOC memorandum reporting on Judicial Council activities).

46. See *TCR: Part 2*, *supra* note 22, at 177-78.

47. See *TCR: Part 1*, *supra* note 21, at 16-17.

48. See Gov't Code § 71674; 2018 Cal. Stat. res. ch. 158 (item #12).

49. See, e.g., *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities*, 46 Cal. L. Revision Comm'n Reports 25 (2019); *Trial Court Restructuring Clean-Up: Obsolete References to Marshals*, 46 Cal. L. Revision Comm'n Reports 105 (2019).

50. See, e.g., CLRC Staff Memorandum 2001-2, Exhibit pp. 7-8 (AOC memorandum discussing work on county-specific statutes to be done by Commission).

51. See *TCR: Part 1*, *supra* note 21, at 19-20. See also *id.* at 109-13 (proposing to amend Code Civ. Proc. §§ 198.5 & 201 and repeal Code Civ. Proc. §§ 199, 199.2, 199.3 & 199.5).

52. See 2002 Cal. Stat. ch. 784 (SB 1316 (Committee on Judiciary)).

53. See *TCU: Revision of Codes*, *supra* note 1, at 85-86.

1 *Obsolete statutes relating to expired pilot projects or other expired programs.* The  
2 Commission studied and made recommendations on this topic, with input from the  
3 Judicial Council and other stakeholders.<sup>54</sup> The proposed legislation was enacted.<sup>55</sup>

4 *Whether to conform the statutory provisions on circumstances for appointment of a*  
5 *receiver.* The Commission studied and made recommendations on this topic, providing  
6 opportunities for stakeholder input.<sup>56</sup> The proposed legislation was enacted.<sup>57</sup>

7 *Procedure for good faith improver claims.* The Commission studied and made  
8 recommendations on this topic, providing opportunities for stakeholder input.<sup>58</sup> The  
9 proposed legislation was enacted.<sup>59</sup>

10 *Procedure for obtaining a stay of a mechanic's lien foreclosure action pending*  
11 *arbitration.* The Commission studied this topic and issued a recommendation in 2000.<sup>60</sup>  
12 The following year, the proposed legislation was included in a bill with some other  
13 reforms,<sup>61</sup> but later deleted to permit further study in light of a new court decision.<sup>62</sup>

14 Thereafter, the Commission approved a revised recommendation.<sup>63</sup> A bill to implement  
15 the revised recommendation was introduced in 2003.<sup>64</sup> To address concerns raised in the  
16 legislative process, the bill was amended to implement the substance of the original  
17 recommendation instead. It was enacted as so amended.<sup>65</sup>

18 *Clarification of provisions relating to obtaining counsel for a defendant in a criminal*  
19 *case.* The Commission's 1998 report pointed out that certain statutes on appointment of  
20 counsel for a criminal defendant "appear to be somewhat dated, and their interrelation is  
21 unclear."<sup>66</sup> The report suggested that a "clearer statutory statement of the governing rules  
22 may be appropriate."<sup>67</sup>

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54. See *Expired Pilot Projects*, 30 Cal. L. Revision Comm'n Reports 327 (2000).

55. See 2001 Cal. Stat. ch. 115 (SB 153 (Knight)).

56. See *Authority to Appoint Receivers*, 30 Cal. L. Revision Comm'n Reports 291 (2000).

57. See 2001 Cal. Stat. ch. 44 (SB 562 (Morrow)).

58. See *Jurisdictional Classification of Good Faith Improver Claims*, 30 Cal. L. Revision Comm'n Reports 281 (2000).

59. See 2000 Cal. Stat. ch. 688, § 7 (AB 1669 (Committee on Judiciary)).

60. See *Stay of Mechanic's Lien Enforcement Pending Arbitration*, 30 Cal. L. Revision Comm'n Reports 307 (2000).

61. See SB 562 (Morrow), as introduced on Feb. 22, 2001.

62. See CLRC Staff Memorandum 2001-93.

63. See *Stay of Mechanic's Lien Enforcement Pending Arbitration*, 31 Cal. L. Revision Comm'n Reports 333 (2001).

64. See AB 113 (Ackerman), as introduced on Feb.3, 2003.

65. See 2003 Cal. Stat. ch. 22.

66. *TCU: Revision of Codes*, *supra* note 1, at 85 n.128 (referring to Penal Code §§ 859, 859a, 859b, 860).

67. *Id.*

1 Upon further study as directed by the Legislature, the Commission became concerned  
2 that some of the statutes might conflict with a defendant’s constitutional right of self-  
3 representation.<sup>68</sup> The Commission decided not to propose legislation in this area, because  
4 such a proposal would entail analysis beyond the scope of the technical clean-up  
5 originally envisioned when the Legislature authorized the study.<sup>69</sup>

6 *Role of court reporter in a county in which the courts have unified, particularly in a*  
7 *criminal case.* Citing several statutes, the Commission’s 1998 report noted that  
8 “[e]xisting statutes governing functions of court reporters may be problematic as applied  
9 in a county in which the courts have unified, particularly in criminal cases.”<sup>70</sup> The  
10 Commission studied this matter and recommended statutory revisions to address the  
11 problems identified.<sup>71</sup> The proposed legislation was enacted.<sup>72</sup>

12 *Appealability of order of recusal in a criminal case.* The Commission studied and  
13 proposed legislation on the appealability of an order of recusal in a criminal case. The  
14 proposed legislation was enacted.<sup>73</sup>

15 *Publication of legal notice in a county with a unified superior court.* The Commission  
16 studied and made recommendations on this topic, with input from the Judicial Council  
17 and other stakeholders.<sup>74</sup> The proposed legislation was enacted.<sup>75</sup>

18 *Resolving the numbering conflict in the two Chapters 2.1 (commencing with Section*  
19 *68650) of Title 8 of the Government Code.* The Legislature fixed this problem by  
20 enacting the 1998 bill on maintenance of the codes.<sup>76</sup> There was no need for the  
21 Commission to do anything further.

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68. See CLRC Staff Memorandum 1999-12.

69. See *id.*; see also CLRC Minutes (June 1999), p. 9.

70. *TCU: Revision of Codes*, *supra* note 1, at 86 n.129 (referring to Code Civ. Proc. § 274c, Gov’t Code § 72194.5 & Penal Code § 869).

71. See *Cases in Which Court Reporter Is Required*, 31 Cal. L. Revision Comm’n Reports 223 (2001).

72. See 2002 Cal. Stat. ch. 71 (SB 1371 (Morrow)). Although the court reporter issues assigned by Section 70219 have been resolved, the statutes governing court reporter compensation still contain material made obsolete by trial court restructuring. See CLRC Staff Memorandum 2020-15. The Commission is authorized to study those statutes pursuant to other sources of authority. See Gov’t Code § 71674; 2018 Cal. Stat. res. ch. 158 (item #12). The situation is complicated and the Commission will proceed with the statutory clean-up when it appears feasible to do so.

73. See 1999 Cal. Stat. ch. 344, § 25 (conforming Penal Code § 1238 to Penal Code § 1424(a)(2)); *TCU Follow-Up*, *supra* note 28, at 664.

74. See *Trial Court Unification: Publication of Legal Notice*, 44 Cal. L. Revision Comm’n Reports 385 (2015).

75. See 2016 Cal. Stat. ch. 2881 (AB 2881 (Committee on Judiciary)).

76. See 1998 Cal. Stat. ch. 485, §§ 94-100.5 (AB 2803 (Committee on Judiciary)).

1     *Default in an unlawful detainer case.* The Commission studied and proposed  
2 legislation on default in an unlawful detainer case. The proposed legislation was  
3 enacted.<sup>77</sup>

4     *Whether to make revisions regarding the repository for the duplicate of an affidavit*  
5 *pursuant to Fish and Game Code Section 2357.* The Commission studied and made  
6 recommendations on this topic, providing opportunities for stakeholder input.<sup>78</sup> The  
7 proposed legislation was enacted.<sup>79</sup>

8     **Recommendation**

9     Because all of the studies required by Government Section 70219 are done, there is no  
10 need to retain it in the codes. The Commission recommends that the section be repealed  
11 as obsolete.<sup>80</sup>

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77. See 1999 Cal. Stat. ch. 344, § 19 (correcting cross-references in Code Civ. Proc. § 1167.3); *TCU Follow-Up*, *supra* note 28, at 663.

78. See *Trout Affidavit*, 30 Cal. L. Revision Comm'n Reports 319 (2000).

79. See 2000 Cal. Stat. ch. 167, § 1 (SB 1487 (Knight)).

80. See proposed repeal of Gov't Code § 70219 & Comment *infra*.



## PROPOSED LEGISLATION

1 **Gov't Code § 70219 (repealed). Judicial Council and Law Revision Commission studies and**  
2 **recommendations**

3 SECTION 1. Section 70219 of the Government Code is repealed.

4 ~~70219. On submission by the California Law Revision Commission of its report to the~~  
5 ~~Governor and the Legislature pursuant to Resolution Chapter 102 of the Statutes of 1997~~  
6 ~~recommending statutory changes that may be necessitated by court unification, the~~  
7 ~~Judicial Council and the California Law Revision Commission shall study and make~~  
8 ~~recommendations to the Governor and the Legislature on the issues identified in the~~  
9 ~~report as appropriate for future study, including consideration of the experience in~~  
10 ~~counties in which the courts have unified. Each agency shall assume primary or joint~~  
11 ~~responsibility for the studies and recommendations as outlined in the report, and each~~  
12 ~~agency shall consult with the other in the studies and recommendations. This section does~~  
13 ~~not limit any authority of the Judicial Council or the California Law Revision~~  
14 ~~Commission to conduct studies and make recommendations authorized or directed by~~  
15 ~~law.~~

16 **Comment.** Section 70219 is repealed as obsolete. All of the assigned studies have been  
17 completed. See *Statutes Made Obsolete by Trial Court Restructuring (Part 7): Completion of*  
18 *Studies Under Government Code Section 70219*, 47 Cal. L. Revision Comm'n Reports \_\_ (2021).

## CONFORMING REVISIONS

19 **Gov't Code § 71601 (amended). Definitions**

20 SEC. \_\_. Section 71601 of the Government Code is amended to read:

21 71601. For purposes of this chapter, the following definitions shall apply:

22 (a) "Appointment" means the offer to and acceptance by a person of a position in the  
23 trial court in accordance with this chapter and the trial court's personnel policies,  
24 procedures, and plans.

25 (b) "Employee organization" means either of the following:

26 (1) Any organization that includes trial court employees and has as one of its primary  
27 purposes representing those employees in their relations with that trial court.

28 (2) Any organization that seeks to represent trial court employees in their relations with  
29 that trial court.

30 (c) "Hiring" means appointment as defined in subdivision (a).

31 (d) "Mediation" means effort by an impartial third party to assist in reconciling a  
32 dispute regarding wages, hours, and other terms and conditions of employment between  
33 representatives of the trial court and the recognized employee organization or recognized  
34 employee organizations through interpretation, suggestion, and advice.

35 (e) "Meet and confer in good faith" means that a trial court or representatives as it may  
36 designate, and representatives of recognized employee organizations, shall have the

1 mutual obligation personally to meet and confer promptly upon request by either party  
2 and continue for a reasonable period of time in order to exchange freely information,  
3 opinions, and proposals, and to endeavor to reach agreement on matters within the scope  
4 of representation. The process should include adequate time for the resolution of  
5 impasses where specific procedures for resolution are contained in this chapter or in a  
6 local rule, or when the procedures are utilized by mutual consent.

7 (f) “Personnel rules,” “personnel policies, procedures, and plans,” and “rules and  
8 regulations” mean policies, procedures, plans, rules, or regulations adopted by a trial  
9 court or its designee pertaining to conditions of employment of trial court employees,  
10 subject to meet and confer in good faith.

11 (g) “Promotion” means promotion within the trial court as defined in the trial court’s  
12 personnel policies, procedures, and plans, subject to meet and confer in good faith.

13 (h) “Recognized employee organization” means an employee organization that has  
14 been formally acknowledged to represent trial court employees by the county under  
15 Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by  
16 the trial court under former Rules 2201 to 2210, inclusive, of the California Rules of  
17 Court, as those rules read on April 23, 1997, Sections 70210 to ~~70219~~, 70218, inclusive,  
18 or Article 3 (commencing with Section 71630).

19 (i) “Subordinate judicial officer” means an officer appointed to perform subordinate  
20 judicial duties as authorized by Section 22 of Article VI of the California Constitution,  
21 including, but not limited to, a court commissioner, probate commissioner, child support  
22 commissioner, referee, traffic referee, juvenile court referee, and juvenile hearing officer.

23 (j) “Transfer” means transfer within the trial court as defined in the trial court’s  
24 personnel policies, procedures, and plans, subject to meet and confer in good faith.

25 (k) “Trial court” means a superior court.

26 (l) “Trial court employee” means a person who is both of the following:

27 (1) Paid from the trial court’s budget, regardless of the funding source. For the purpose  
28 of this paragraph, “trial court’s budget” means funds from which the presiding judge of a  
29 trial court, or ~~his or her~~ the presiding judge’s designee, has authority to control, authorize,  
30 and direct expenditures, including, but not limited to, local revenues, all grant funds, and  
31 trial court operations funds.

32 (2) Subject to the trial court’s right to control the manner and means of ~~his or her~~ the  
33 person’s work because of the trial court’s authority to hire, supervise, discipline, and  
34 terminate employment. For purposes of this paragraph only, the “trial court” includes the  
35 judges of a trial court or their appointees who are vested with or delegated the authority  
36 to hire, supervise, discipline, and terminate.

37 (m) A person is a “trial court employee” if and only if both paragraphs (1) and (2) of  
38 subdivision (l) are true irrespective of job classification or whether the functions  
39 performed by that person are identified in Rule 10.810 of the California Rules of Court.  
40 “Trial court employee” includes those subordinate judicial officers who satisfy  
41 paragraphs (1) and (2) of subdivision (l). The phrase “trial court employee” does not  
42 include temporary employees hired through agencies, jurors, individuals hired by the trial  
43 court pursuant to an independent contractor agreement, individuals for whom the county



1 or trial court reports income to the Internal Revenue Service on a Form 1099 and does not  
2 withhold employment taxes, sheriffs, temporary judges, and judges whether elected or  
3 appointed. Any temporary employee, whether hired through an agency or not, shall not  
4 be employed in the trial court for a period exceeding 180 calendar days, except that for  
5 court reporters in a county of the first class, a trial court and a recognized employee  
6 organization may provide otherwise by mutual agreement in a memorandum of  
7 understanding or other agreement.

8 **Comment.** Section 71601 is amended to reflect the repeal of former Section 70219, which was  
9 obsolete and did not relate to representation of trial court employees.

10 This section is also amended to eliminate gendered pronouns.

11 **Gov't Code § 71614 (amended). Effect of chapter**

12 SEC. \_\_. Section 71614 of the Government Code is amended to read:

13 70614. Nothing in this chapter shall be construed as affecting the interpretation or  
14 operation of Sections 70210 to ~~70219~~, 70218, inclusive, for purposes of unification of the  
15 trial courts.

16 **Comment.** Section 71614 is amended to reflect the repeal of former Section 70219, which  
17 became obsolete when the Judicial Council and the Law Revision Commission completed the  
18 studies that it required them to conduct.

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