

TEXT OF COMMENTS TO SECTIONS AFFECTED BY
1998 COMMISSION RECOMMENDATIONS

CLRC Staff Note. This document sets out the text of all Official Comments to Commission sponsored legislation enacted in the 1998 legislative session. The source for each Comment is given in the accompanying Table of “Sections Affected by 1998 Commission Legislation.” Direct any questions to Stan Ulrich at 650-494-1335 or sulrich@clrc.ca.gov.

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BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 470.3 (amended). Fee for filing first paper in civil action

Comment. Section 470.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6152 (amended). Runners and cappers

Comment. Section 6152 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6301 (amended). Board of law library trustees

Comment. Section 6301 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6302.5 (amended). Board of law library trustees of Los Angeles County

Comment. Section 6302.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6321 (amended). Filing fee

Comment. Section 6321 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6322 (amended). First appearance fee

Comment. Section 6322 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6341 (amended). Law library branches

Comment. Section 6341 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Bus. & Prof. Code § 7028.2 (amended). Venue for criminal complaint

Comment. Section 7028.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). A misdemeanor complaint may be brought in the municipal court or in the superior court in a county in which there is no municipal court. Penal Code § 1462.

Bus. & Prof. Code § 17209 (amended). Notice to Attorney General and county district attorney

Comment. Section 17209 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Bus. & Prof. Code § 17536.5 (amended). Notice to Attorney General and county district attorney

Comment. Section 17536.5 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Bus. & Prof. Code § 25762 (amended). Fines and forfeitures of bail

Comment. Section 25762 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

CIVIL CODE

Civ. Code § 784 (added). “Restriction”

Comment. Section 784 provides a definition of “restriction” for application in Code of Civil Procedure Section 336 (statute of limitations). The reference to “declaration” includes a declaration of restrictions in a common interest development intended to be enforceable as equitable servitudes. See Section 1353(a).

Civ. Code § 798.61 (amended). Abandoned mobilehomes

Comment. Section 798.61 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Civ. Code § 1181 (amended). Proof or acknowledgment of instrument

Comment. Subdivision (a) of Section 1181 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The reference to a retired judge of a justice court is maintained in subdivision (d) to enable retired judges of justice courts to continue to take proofs or acknowledgments of instruments.

Civ. Code § 1464 (repealed). First Rule in Spencer’s Case

Comment. Section 1464 is repealed because it is inconsistent with modern principles of construction of instruments and is eclipsed by the broader provisions of more recently enacted statutes. See Sections 1468, 1469, and 1470, which do not require use of the word “assigns” in order that a covenant run with the land, but only that successive owners are “expressed to be bound” in the instrument. See also 7 H. Miller & M. Starr, *Current Law of California Real Estate* § 22:2 (2d ed. 1990); 4 B. Witkin, *Summary of California Law Real Property* § 487 (9th ed. 1987). Section 1464 codified the First Rule in Spencer’s Case, a common law principle that is now discredited in both the United States and Great Britain. See, e.g., Bordwell, *English Property Reform and Its American Aspects*, 37 *Yale L.J.* 1, 27 (1927); C. Berger, *Land Use and Ownership* § 10.5 (3d ed. 1983); 5 R. Powell & P. Rohan, *Powell on Property* ¶ 673[2] (1994).

Civ. Code § 1719 (amended). Checks passed on insufficient funds

Comment. Subdivisions (f) and (g) of Section 1719 are amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Civ. Code § 1780 (amended). Action for unlawful method, act, or practice

Comment. Section 1780 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Civ. Code § 1812.10 (amended). Action on contract or installment account

Comment. Section 1812.10 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Civ. Code § 2984.4 (amended). Action on contract or purchase order

Comment. Section 2984.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Civ. Code § 3342.5 (amended). Dog bites

Comment. Section 3342.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

CODE OF CIVIL PROCEDURE

Code Civ. Proc. § 32.5 (added). Jurisdictional classification

Comment. Section 32.5 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment. The term is used in Sections 395.9, 996.430, 1140, 1171, 1206, and 1287.4.

Code Civ. Proc. § 38 (added). Judicial districts

Comment. Section 38 is intended for drafting convenience. See also Section 17 (“judicial district” includes city and county). Court of appeal districts and municipal court districts are constitutionally mandated. See Cal. Const. art. VI, §§ 3, 5. Superior court districts do not exist except in Los Angeles County. See Gov’t Code §§ 69640-69650.

By operation of this section, in a county in which the superior and municipal courts have unified, a statutory reference to a judicial district means the county rather than a former municipal court district. This general rule is subject to exceptions. See, e.g., Gov’t Code § 71042.5 (preservation of judicial districts for purpose of publication).

Code Civ. Proc. § 77 (amended). Appellate division

Comment. Section 77 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Subdivision (a) requires adoption of court rules intended to promote the independence and quality of judges serving in the appellate division. See Cal. Const. art. VI, § 4 (expressly recognizing the goal of promoting the independence of the appellate division). Rules may provide relevant factors to be used in making appointments to the appellate division, such as length of

service as a judge, reputation within the unified court, and degree of separateness of the appellate division workload from the judge's regular assignments (e.g., a superior court judge who routinely handles large numbers of misdemeanors might ordinarily not serve in the appellate division). Review by a panel of judges might include judges assigned from another county in appropriate circumstances, or even by a panel of appellate division judges from different superior courts who sit in turn in each of the superior courts in the "circuit."

Subdivision (b) continues the rule that the appellate division sits in panels of three. A judge may not participate in appellate review of any proceeding that the judge tried or heard. Section 170.1(b).

Subdivision (e) is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). It is also amended to specify the jurisdiction of the appellate division in a unified superior court. For guidance on which civil cases are subject to the appellate jurisdiction of the appellate division, see Section 904.2 (taking appeal in limited civil case) and Constitution Article VI, Section 11.

Section 77 is amended throughout to replace references to the appellate department with references to the appellate division, and to replace references to the Chairperson of the Judicial Council with references to the Chief Justice. This is consistent with the terminology used in Constitution Article VI.

Heading of Chapter 5 (commencing with Section 81) (amended)

Comment. The heading "Chapter 5. Municipal Courts and Justice Courts" is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 1 (commencing with Section 81) (repealed)

Comment. The heading "Article 1. General Provisions" is repealed as unnecessary.

Code Civ. Proc. § 82 (amended). Effect of establishing municipal court

Comment. Section 82 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 83 (repealed). Concurrent jurisdiction

Comment. Section 83 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 84 (amended). Process

Comment. Section 84 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 85 (repealed). Money judgments

Comment. Former Section 85 is continued in Section 582.5 without substantive change, except that Section 582.5 refers to limited civil cases instead of cases brought in municipal court.

Code Civ. Proc. § 85 (added). Limited civil cases

Comment. Section 85 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It facilitates differentiation among civil cases for purposes such as determining original jurisdiction in a county in which there is a municipal court (see Section 85.1), applying economic litigation procedures (see Section 91), and defining appellate jurisdiction (see Sections 904.1, 904.2).

The amount in controversy requirement of subdivision (a) derives from the \$25,000 jurisdictional limit that applied to the municipal courts. *See, e.g.,* 2 B. Witkin, *California Procedure Courts* § 249, at 323-25 (4th ed. 1996). Now, a case is a limited civil case and subject

to the procedures for a limited civil case only if the amount in controversy is \$25,000 or less. The last sentence of subdivision (a), defining “amount in controversy,” continues the former second sentence of Section 91 without change. For discussion of calculating amounts in controversy in cases involving multiple causes, see R. Weil & I. Brown, Jr., *California Practice Guide: Civil Procedure Before Trial, Jurisdiction and Venue* §§ 3:97-3:111, at 3-22 to 3-24 (1997); 2 B. Witkin, *California Procedure Jurisdiction* §§ 38-44, at 582-86 (4th ed. 1996).

Subdivision (b) reflects and preserves limitations on the types of equitable relief awardable in a municipal court. See Section 580 & Comment. Where a money judgment for \$25,000 or less would fully resolve a dispute and there is no need for a declaration of future rights, the case is a limited civil case despite a prayer for declaratory relief. See *Cardellini v. Casey*, 181 Cal. App. 3d 389, 396, 226 Cal. Rptr. 659 (1986).

Subdivision (c) continues the effect of former law, under which each county had one or more municipal courts and a superior court. Causes like those now listed in subdivision (c) were within the original jurisdiction of the municipal court and subject to procedures now applicable to a limited civil case. Where a cause within the original jurisdiction of the municipal court was properly joined with one within the original jurisdiction of the superior court, the entire case would be tried in the superior court. See, e.g., *Wiggins v. Washington Nat'l Life Ins. Co.*, 246 Cal. App. 2d 840, 848, 55 Cal. Rptr. 129 (1966) (“from the moment defendant filed its cross-complaint for declaratory relief in the instant action the municipal court lost jurisdiction over the cause and was obliged to suspend further proceedings in the action and to transfer it to the superior court”); *Armstrong v. Transcontinental Land & Water Co.*, 134 Cal. App. 2d Supp. 889, 285 P.2d 1031 (1955) (joinder of equitable cross-complaint compelled transfer of entire action to superior court). Subdivision (c) continues that policy by requiring that relief in a limited civil case be exclusively of a type described in one or more of the listed provisions, or an unlisted provision if the provision classifies the case as a limited civil case or places the case within the original jurisdiction of the municipal court. See, e.g., Section 688.010 (enforcement of state tax liability pursuant to warrant or notice of levy). If another type of cause is joined, the procedures for a limited civil case do not apply.

See Sections 22 (action defined), 23 (special proceeding defined).

Code Civ. Proc. § 85.1 (added). Original jurisdiction

Comment. Section 85.1 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). This section limits the original jurisdiction of the superior court in a county in which there is a municipal court. See Cal. Const. art. VI, § 10. Although Section 85.1 states the general rule, in some circumstances the municipal and superior courts may have concurrent jurisdiction. See, e.g., Section 688.010 (enforcement of state tax liability pursuant to warrant or notice of levy).

Code Civ. Proc. § 86 (amended) Miscellaneous limited civil cases

Comment. Section 86 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

The matters listed in subdivisions (a) and (b) are not limited civil cases if the amount in controversy exceeds \$25,000. See Section 85. Formerly, each county had one or more municipal courts and a superior court, and the matters listed in Section 86(a)-(b) were within the original jurisdiction of the municipal court, unless the amount in controversy exceeded \$25,000. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so subdivisions (a) and (b) as amended continue the effect of former law. See Section 85 (limited civil cases) & Comment.

Former subdivision (a)(11) is continued in Penal Code Section 1214, with modifications to accommodate trial court unification.

Former subdivision (c) is continued without substantive change in Section 580 (relief awardable in civil causes).

Former subdivision (d) is deleted as obsolete.

Code Civ. Proc. § 86.1 (amended). Long-Term Care, Health, Safety, and Security Act

Comment. Section 86.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

An action pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 is not a limited civil case if the amount in controversy exceeds \$25,000. See Section 85 (limited civil cases). Formerly, each county had one or more municipal courts and a superior court, and an action pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 was within the original jurisdiction of the municipal court, unless the amount in controversy exceeded \$25,000. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 86.1 as amended continues the effect of former law. See Section 85 & Comment.

Code Civ. Proc. § 87 (repealed). Corporation as party

Comment. Section 87 is repealed as an unconstitutional intrusion on the power of a court to set minimum standards for who may appear in court on behalf of a corporation. *Merco Constr. Eng'rs, Inc. v. Municipal Court*, 21 Cal. 3d 724, 731, 581 P.2d 636, 147 Cal. Rptr. 631 (1978) (“[W]hen the matter at issue involves minimum standards for engaging in the practice of law, it is this court and not the Legislature which is final policy maker.”). See also *Say & Say, Inc. v. Ebershoff*, 20 Cal. App. 4th 1759, 1766-67, 25 Cal. Rptr. 2d 703, 709 (1993) (“A corporation can never appear in this or the superior court in civil or criminal litigation except in limited circumstances in some small claims litigation in *propria persona*.”); *Albion River Watershed Protection Ass’n v. Department of Forestry & Fire Protection*, 20 Cal. App. 4th 34, 37, 24 Cal. Rptr. 2d 341, 343 (1993) (“It is settled that an unincorporated association must be represented by a person licensed in this state to practice law.”); *Clean Air Transport Systems v. San Mateo County Transit Dist.*, 198 Cal. App. 3d 576, 578, 243 Cal. Rptr. 799 (1988) (“A lay person who purports to represent a corporation is engaged in the unlawful practice of law.”).

Code Civ. Proc. § 88 (repealed). Clerks of justice courts

Comment. Section 88 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 89 (repealed). Issuance of papers in blank

Comment. Section 89 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 2 (commencing with Section 90) (amended)

Comment. The heading “Article 2. Economic Litigation for Municipal and Justice Courts” is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

New Chapter 5.1 (“Limited Civil Cases”) (commencing with Section 85) of Title 1 of Part 1 is now divided into two articles: “Article 1. Jurisdiction in Limited Civil Cases” (commencing with Section 85) and “Article 2. Economic Litigation for Limited Civil Cases.”

Code Civ. Proc. § 91 (amended). Application of economic litigation procedures

Comment. Subdivision (a) of Section 91 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Formerly, each county had one or more municipal courts and a superior court, and economic litigation procedures applied to cases tried in the municipal courts. Now, the matters formerly triable in those courts are classified as limited civil cases. See Section 85 (limited civil cases) &

Comment. By making economic litigation procedures applicable to limited civil cases, Section 91 continues the effect of former law. The former second sentence of subdivision (a), defining “amount in controversy,” is continued without substantive change in Section 85.

Subdivision (b) is amended to delete the reference to former Chapter 5A (commencing with Section 116), which has been repealed. Instead, subdivision (b) now refers to Chapter 5.5 (commencing with Section 116.110), which contains the current small claims provisions.

Subdivision (d) is deleted as obsolete.

Code Civ. Proc. § 116.120 (amended). Legislative findings and declaration

Comment. Section 116.120 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 116.210 (amended). Small claims division

Comment. Section 116.210 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Section 116.210 is also amended to expressly authorize continued use of the name “small claims court,” even though the small claims division is not a separate court.

Code Civ. Proc. § 116.231 (amended). Limitation on number of actions filed each year

Comment. Section 116.231 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Code Civ. Proc. § 116.250 (amended). Court sessions

Comment. Section 116.250 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). For guidance in applying Section 116.250, see Section 38 (judicial districts) & Comment.

Code Civ. Proc. § 116.760 (amended). Filing fee

Comment. Section 116.760 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Under subdivision (a), the fee for appealing from a small claims judgment is the same as the fee for an appeal to the appellate division of the superior court, which is specified in Section 26824 of the Government Code.

Subdivision (b) is amended to reflect relocation of the small claims division from the municipal court to the superior court in a county in which the municipal and superior courts unify their operations. Because the small claims division is in the same court that hears small claims appeals, subdivision (b) extends only to documents relating to the appeal, not to all documents filed in superior court.

Code Civ. Proc. § 116.770 (amended). Hearing de novo

Comment. Section 116.770 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Code Civ. Proc. § 116.940 (amended). Advisory services

Comment. Section 116.940 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court, Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 116.950 (amended). Advisory committee; operation of section

Comment. Section 116.950 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court, Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 134 (amended). Court closure on judicial holidays

Comment. Section 134 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 166 (amended). Judges of municipal and superior courts

Comment. Section 166 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 170.5 (amended). Definitions

Comment. Section 170.5 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 170.6 (amended). Prejudice against party or attorney

Comment. Subdivision (1) of Section 170.6 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 170.7 (amended). Judge serving on appellate division

Comment. Section 170.7 is amended to refer more precisely to the appellate division. See Cal. Const. art. VI, § 4.

Code Civ. Proc. § 179 (amended). Taking and certifying acknowledgments, affidavits, or depositions

Comment. Section 179 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 194 (amended). Definitions

Comment. Subdivision (b) of Section 194 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 195 (amended). Jury commissioners

Comment. Section 195 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 198.5 (amended). Superior court venires in judicial districts

Comment. Section 198.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Subdivision (b) is drawn from Section 191 (policy of state to select jury from population of area served by court; all qualified persons to have an equal opportunity to be considered for jury service). A local rule promulgated pursuant to subdivision (b) may differentiate between misdemeanors and limited civil cases, on the one hand, and felonies and civil cases other than limited civil cases, on the other. See Code Civ. Proc. § 85 (limited civil cases) & Comment; Penal Code § 691 (definitions) & Comment.

Code Civ. Proc. § 200 (amended). Jury pool

Comment. Section 200 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 215 (amended). Fees and mileage for jurors

Comment. Subdivision (a) of Section 215 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 217 (amended). Jurors in criminal cases

Comment. Section 217 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§1, 5(b).

Code Civ. Proc. § 234 (amended). Alternate jurors

Comment. Section 234 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 269 (amended). Record on appeal

Comment. Section 269 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 274a (amended). Transcription at judge's request

Comment. Section 274a is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 274c (amended). Official reporters of municipal courts

Comment. Section 274c is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

See Section 85 (limited civil cases) & Comment; Penal Code § 691 (misdemeanor or infraction case).

Code Civ. Proc. § 336 (amended). Five-year statute of limitations

Comment. Subdivision (b) is added to Section 336 to make clear that the statutory limitation period applicable to enforcement of a restriction is five years, consistent with the general statutes governing recovery of real property. *Cf.* Section 319 (five years). This ensures a uniform limitation period regardless of whether the restriction is in the form of a covenant, condition, negative easement, or equitable servitude. See Civ. Code § 784 (“restriction” defined); *cf.* 2 A. Bowman, *Ogden’s Revised California Real Property Law* § 23.25, at 1155, § 23.32, at 1159 (1975) (five years).

For purposes of subdivision (b), the time when a homeowners’ association is deemed to have knowledge of a violation of a restriction would be determined under general principles of imputed knowledge. See, e.g., Civ. Code § 2332. Thus an incorporated or unincorporated homeowner’s association is deemed to have knowledge of a violation of a restriction when an appropriate officer or agent of the association has knowledge of the violation.

Under subdivision (b), a failure to enforce a violation within the limitation period should not alone be grounds to imply a waiver or abandonment of the restriction. However, such a failure may, combined with other circumstances, be grounds for waiver or estoppel or evidence of abandonment or obsolescence. See, e.g., *Bryant v. Whitney*, 178 Cal. 640, 174 P. 32 (1918) (waiver).

Subdivision (b) provides a two-year grace period to enable action on a violation that would become unenforceable upon enactment of this chapter and a shorter grace period for action on a violation that would become unenforceable within two years after enactment of this chapter. The two-year grace period does not operate to extend the time to act on a violation that would become unenforceable by operation of law apart from this chapter, either pursuant to case law limitations or applicable statutes of limitation.

Code Civ. Proc. § 392 (amended). Real property actions

Comment. Section 392 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Code Civ. Proc. § 393 (amended). Action for penalty or forfeiture or against public officer

Comment. Section 393 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, § 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Code Civ. Proc. § 395 (amended). Actions generally

Comment. Section 395 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases).

Code Civ. Proc. § 395.9 (added). Misclassification as limited civil case or otherwise

Comment. Section 395.9 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases) & Comment.

Code Civ. Proc. § 396 (amended). Court without jurisdiction

Comment. Section 396 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 396a (amended). Statement of jurisdictional facts

Comment. Section 396a is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 396a applied to matters commenced in the municipal courts. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 396a as amended continues the effect of former law. *Cf.* Sections 85, 85.1 (limited civil cases)

Code Civ. Proc. § 399.5 (added). Reclassification pursuant to Section 395.9

Comment. Section 399.5 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Pleading rules for limited civil cases differ in some respects from pleading rules for other cases. See Sections 91 (application of economic litigation procedures), 92 (pleadings in cases subject to economic litigation procedures), 93 (case questionnaire), 396a (statement of jurisdictional facts), 425.10 (content of complaint), 425.11 (damages for personal injury or wrongful death). Under subdivision (e), a court may make appropriate adjustments where a defendant responds to the complaint in accordance with pleading rules that become inapplicable on reclassification.

Code Civ. Proc. § 400 (amended). Petition for writ of mandate

Comment. Section 400 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 402 (amended). Transfer for convenience of municipal court

Comment. Section 402 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 402.5 (added). Change of venue in limited civil case

Comment. Section 402.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section makes clear that even though a limited civil case is triable in the superior court in a county in which there is no municipal court, there may be circumstances where it is appropriate to transfer the case for trial within the same county rather than to another county. This parallels statutory authority for change of venue in misdemeanor and infraction cases. Penal Code § 1038 (Judicial Council rules). The Judicial Council may prescribe rules governing transfers. Cal. Const. art. VI, § 6 (“To improve the administration of justice the council shall ... adopt rules for court administration, practice and procedure The rules adopted shall not be inconsistent with statute.”).

Code Civ. Proc. § 422.20 (repealed). Justice court pleadings

Comment. Section 422.20 is repealed to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 422.30 (amended). Caption

Comment. Section 422.30 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Subdivision (b) facilitates identification of limited civil cases in a county in which the municipal and superior courts have unified their operations in the superior court. See Section 85 (limited civil cases) & Comment. For guidance on procedures for challenging a caption stating, or failing to state, that an action or proceeding is a limited civil case, see Sections 395.9 (misclassification as limited civil case or otherwise), 399.5 (reclassification pursuant to Section 395.9), 400 (petition for writ of mandate).

Section 422.30 is also amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 425.10 (amended). Content of complaint

Comment. Section 425.10 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 425.11 (amended). Damages for personal injury or wrongful death

Comment. Section 425.11 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 489.220 (amended). Amount of undertaking

Comment. Section 489.220 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 489.220 required an undertaking of \$2,500 for an action in municipal court and \$7,500 for an action in superior court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court, so Section 489.220 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 564 (amended). Appointment of receivers

Comment. Section 564 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 575 (amended). Promulgation of rules by Judicial Council

Comment. Section 575 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 575.1 (amended). Local rules

Comment. Section 575.1 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 580 (amended). Relief awardable

Comment. Section 580 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

The last sentence of subdivision (a) continues former Section 86(c) without substantive change.

Subdivision (b)(1) makes explicit that although the jurisdiction of a unified superior court includes matters in which the amount in controversy exceeds the maximum for a limited civil case as provided in Section 85, the court cannot grant substantive relief exceeding that maximum in a limited civil case. Formerly, each county had one or more municipal courts and a superior court, and the jurisdictional limit of the municipal courts constrained the relief awardable in matters tried in those courts. *See Stokus v. Marsh*, 217 Cal. App. 3d 647, 653, 266 Cal. Rptr. 90 (1990) (“we view the jurisdictional limit of Code of Civil Procedure section 86 as applying to the substantive judgment and not the award of costs, including reasonable attorneys’ fees”); *Bakkebo v. Municipal Court*, 124 Cal. App. 3d 229, 235, 177 Cal. Rptr. 239 (1981) (“Since the substantive demand is the touchstone of jurisdiction it follows that if the recovery on that demand is within the jurisdiction of the municipal court, that court retains jurisdiction to award costs and attorney fees even though those items, when added to the substantive portion of the judgment, aggregate an amount in excess of the jurisdictional limit.”); *see also* Section 396 (“In any case where the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be remitted and the action may continue in the court where it is pending.”). A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 580(b)(1) as amended continues and codifies the effect of former law.

Similarly, subdivisions (b)(2)-(b)(5) reflect and preserve limitations on the types of equitable relief awardable in a municipal court. *See* R. Weil & I. Brown, Jr., *California Practice Guide: Civil Procedure Before Trial, Jurisdiction and Venue* §§ 3:12-3:18.1, at 3-6 to 3-7 (1997). *See also* *St. James Church of Christ Holiness v. Superior Court*, 135 Cal. App. 2d 352, 362, 287 P.2d 387 (1955) (municipal court lacks jurisdiction to grant permanent injunction); *Pasadena Inv. Co. v. Peerless Casualty Co.*, 134 Cal. App. 2d Supp. 902, 286 P.2d 1014 (1955) (municipal court lacks jurisdiction to grant declaratory relief). On enforcement of orders under the Family Code, *see* Fam. Code §§ 200, 290; *In re Marriage of Lackey*, 143 Cal. App. 3d 698, 191 Cal. Rptr. 309 (1983).

Cf. Sections 85, 85.1 (limited civil cases).

Code Civ. Proc. § 581d (amended). Dismissal

Comment. Section 581d is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 582.5 (added). Judgment for payment of money

Comment. Section 582.5 continues former Section 85 without substantive change, except that former Section 85 referred to the municipal courts, whereas Section 582.5 pertains to a limited civil case. A limited civil case is equivalent to a matter within the original jurisdiction of the

municipal court under former law, so Section 582.5 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 594 (amended). Bringing issues to trial or hearing

Comment. Section 594 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 628 (amended). Entry upon receipt of verdict

Comment. Section 628 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 631 (amended). Waiver of trial by jury

Comment. Section 631 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 632 (amended). Statement of decision

Comment. Section 632 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 655 (amended). Application of article to municipal and superior courts

Comment. Section 655 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 668 (amended). Judgment book

Comment. Section 668 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 670 (amended). Judgment roll

Comment. Section 670 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 685.030 (amended). Satisfaction of money judgment

Comment. Subdivision (e) of Section 685.030 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 685.030 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 688.010 (amended). Jurisdiction

Comment. Section 688.010 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 697.310 (amended). Creation and duration of lien generally

Comment. Section 697.310 is amended to reflect relocation of the substance of former Section 85 to Section 582.5.

Code Civ. Proc. § 697.350 (amended). Lien on real property

Comment. Section 697.350 is amended to reflect relocation of the substance of former Section 85 to Section 582.5.

Code Civ. Proc. § 697.540 (amended). Lien on personal property

Comment. Section 697.540 is amended to reflect relocation of the substance of former Section 85 to Section 582.5.

Code Civ. Proc. § 703.600 (amended). Appeal of order on claim of exemption

Comment. Section 703.600 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 706.105 (amended). Claim of exemption under § 706.051

Comment. Section 706.105 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 708.180 (amended). Adverse claim of, or denial of debt by third party

Comment. Section 708.180 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 720.160 (amended). Undertaking by creditor

Comment. Section 720.160 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 720.160 required an undertaking of \$2,500 for an action in municipal court and \$7,500 for an action in superior court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 720.160 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 720.260 (amended). Undertaking by creditor

Comment. Section 720.260 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Formerly, each county had one or more municipal courts and a superior court, and Section 720.260 required an undertaking of \$2,500 for an action in municipal court and \$7,500 for an action in superior court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 720.260 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 720.420 (amended). Appeals of judgment on third-party claim

Comment. Section 720.420 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 871.3 (amended). Good faith improver

Comment. Section 871.3 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Code Civ. Proc. § 904.1 (amended). Taking appeal

Comment. Section 904.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Subdivision (a) implements Constitution Article VI, Section 11(a), as it applies in civil cases (courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within appellate jurisdiction of courts of appeal on June 30, 1995, and in other causes prescribed by statute).

Paragraph (a)(1)(C), which made nonreviewable “a judgment on appeal from a municipal court or a justice court or a small claims court,” is deleted as unnecessary, because the introductory clause of Section 904.1 as amended already excludes those matters from its coverage.

Section 904.1 is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 904.2 (amended). Taking appeal in limited civil case

Comment. Section 904.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The amendment implements Constitution Article VI, Section 11(b), as it applies in civil cases (appellate division of superior court has appellate jurisdiction in causes prescribed by statute).

For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Subdivision (i) is deleted because review of a judgment of the small claims division is governed by Section 904.5. See also Sections 116.710-116.795.

Section 904.2 is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 904.5 (amended). Small claims appeals

Comment. Section 904.5 is amended to accommodate unification of the municipal and superior courts in a county. Review of a judgment of the small claims division is governed by Sections 116.710-116.795. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 911 (amended). Transfer from appellate division to court of appeal

Comment. Section 911 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Section 911 applies to appeals taken to the appellate division of the superior court (see Section 904.2 (taking appeal in limited civil case) and to appeals taken to the superior court where the appeal is in the form of a trial de novo (see, e.g., Section 116.770 (small claims appeals)).

Code Civ. Proc. § 912 (amended). Certification to trial court of result on appeal

Comment. Section 912 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b), (e), 10.

The amendment deletes the clause authorizing the judge to substitute for the clerk if there be no clerk. That provision is obsolete because every municipal and superior court has a clerk. Additionally, judges have authority to perform any act that court clerks are allowed to perform. Section 167.

Code Civ. Proc. § 996.430 (amended). Enforcement of liability on bond

Comment. Section 996.430 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1014 (amended). Appearance by defendant

Comment. Section 1014 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The amendment reflects the addition of Section 395.9 (misclassification as limited civil case or otherwise), which sets forth a procedure for challenging a caption stating, or failing to state, that an action or proceeding is a limited civil case. See also Sections 85 (limited civil cases) & Comment, 399.5 (reclassification pursuant to Section 395.9), 400 (petition for writ of mandate), 422.30 (caption).

Code Civ. Proc. § 1033 (amended). Small recovery

Comment. Section 1033 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court, Cal. Const. art. VI, §§ 1, 5(b).

For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1052 (amended). Register of civil actions in municipal court

Comment. Section 1052 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1052.5 (amended). Alternative methods of keeping register of actions

Comment. Section 1052.5 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1060 (amended). Declaration of rights and duties

Comment. Section 1060 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1068 (amended). Courts authorized to grant writ of review

Comment. Section 1068 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Subdivision (b) implements Constitution Article VI, Section 10. For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1085 (amended). Courts authorized to grant writ of mandate

Comment. Section 1085 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Subdivision (b) implements Constitution Article VI, Section 10. For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1103 (amended). Courts authorized to grant writ of prohibition

Comment. Section 1103 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Subdivision (b) implements Constitution Article VI, Section 10. For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1134 (amended). Judgment and costs

Comment. Section 1134 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

For guidance on what constitutes a limited civil case, see Section 85 & Comment.

Code Civ. Proc. § 1140 (amended). Enforcement and appeal of judgment where controversy is submitted on agreed statement of facts

Comment. Section 1140 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 1141.11 (amended). Arbitration of at-issue civil actions

Comment. Section 1141.11 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 85 & Comment (limited civil cases).

Former subdivision (e) is deleted as obsolete.

Code Civ. Proc. § 1141.12 (amended). Arbitration

Comment. Section 1141.12 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 1161.2 (amended). Case court records

Comment. Section 1161.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Formerly, each county had one or more municipal courts and a superior court, and subdivision (a) referred to an unlawful detainer case filed in a municipal court. A limited civil case is equivalent to a matter within the original jurisdiction of the municipal court under former law, so Section 1161.2 as amended continues the effect of former law. See Section 85 (limited civil cases) & Comment.

For guidance in applying subdivision (e), see Section 38 (judicial districts) & Comment.

Code Civ. Proc. § 1167.2 (amended). Rent deposit pilot program

Comment. Section 1167.2(a) is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Code Civ. Proc. § 1171 (amended). Jury trial in unlawful detainer cases

Comment. Section 1171 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1206 (amended). Asserting preferred labor claim in connection with writ of attachment or execution

Comment. Section 1206 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case). See also Section 85 Comment.

Code Civ. Proc. § 1281.5 (amended). Application to stay pending arbitration

Comment. Section 1281.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1283.05 (amended). Depositions in arbitration proceedings

Comment. Section 1283.05 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1287.4 (amended). Judgment on confirmation of arbitration award

Comment. Section 1287.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Sections 32.5 (jurisdictional classification), 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case), 86(a)(10)(A) (arbitration-related limited civil cases). See also Section 85 Comment.

Code Civ. Proc. § 1710.20 (amended). Filing of application

Comment. Section 1710.20 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

See Section 85 (limited civil cases) & Comment.

Code Civ. Proc. § 1775.1 (amended). Definitions

Comment. Section 1775.1 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 2015.3 (amended). Certificate of sheriff, marshal, or court clerk

Comment. Section 2015.3 is amended to reflect the elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Code Civ. Proc. § 2031 (amended). Inspection of documents, things, and places

Comment. Subdivision (h) of Section 2031 is amended to permit 30 days for a response to a demand for production of documents. This conforms Section 2031 to Rule 34 of the Federal Rules of Civil Procedure, and makes the time period for a response to a demand for production of documents the same as the 30-day period in California for a response to written interrogatories and requests for admission. See Sections 2030(h), 2033(h).

If a party fails to respond to a request for production of documents, the court may prohibit the party from introducing the documents in evidence. Section 2023(a)(4), (b)(3).

COM M E R C I A L C O D E

Com. Code § 8107 (amended). Appropriate person; effectiveness of endorsement, instruction, or entitlement order

Comment. Subdivision (a)(4) of Section 8107 is amended to add the last portion, following “the estate of the decedent.” This is a technical amendment to make clear that a TOD beneficiary is an “appropriate person” when the beneficiary has survived the registered sole owner or all the registered owners of a security registered in beneficiary form under the Uniform TOD Security Registration Act. See Prob. Code §§ 5500-5512. See also Section 8102 (“entitlement order,” “financial asset,” “endorsement,” “instruction,” “security,” “security certificate,” and “uncertificated security” defined).

EDUCATION CODE

Educ. Code § 44944 (amended). Dismissal or suspension proceeding

Comment. Section 44944 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 45312 (amended). Hearing or investigation by hearing officer

Comment. Section 45312 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 48294 (amended). Payment of fines

Comment. Section 48294 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Educ. Code § 48295 (amended). Jurisdiction

Comment. Section 48295 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Educ. Code § 87675 (amended). Arbitration proceedings

Comment. Section 87675 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 87679 (amended). Conduct of proceedings

Comment. Section 87679 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 88131 (amended). Hearing or investigation by hearing officer

Comment. Section 88131 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

ELECTIONS CODE

Elec. Code § 325 (amended). Judicial district

Comment. Section 325 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 327 (amended). Judicial officer

Comment. Section 327 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 8203 (amended). Incumbents

Comment. Section 8203 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 13107 (amended). Ballot designations

Comment. Section 13107 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 13109 (amended). Order of offices listed on ballot

Comment. Section 13109 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Elec. Code § 13111 (amended). Names on ballot

Comment. Section 13111 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

EVIDENCE CODE

Evid. Code § 300 (amended). Application of code

Comment. Section 300 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Evid. Code §§ 1500-1511 (repealed). Best Evidence Rule

Comment. The Best Evidence Rule is repealed and replaced with the Secondary Evidence Rule. See new Article 1 (commencing with Section 1520).

Evid. Code § 1500 (repealed). Best Evidence Rule

Comment. Former Section 1500 is superseded by Sections 1520 (proof of content of writing by original), 1521 (Secondary Evidence Rule), 1522 (exclusion of secondary evidence in criminal action) and 1523 (oral testimony of content of writing).

Evid. Code § 1500.5 (repealed). Computer recorded information and computer programs

Comment. Section 1500.5 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. Subdivisions (c) and (d) are continued in Section 1552 (computer printout) without substantive change, except that the reference to “best available evidence” is changed to “an accurate representation,” due to the replacement of the Best Evidence Rule with the Secondary Evidence Rule.

Evid. Code § 1500.6 (repealed). Images stored on video or digital media

Comment. Section 1500.6 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. The last three sentences of the second paragraph of Section 1500.6 are continued in Section 1553 (printout of images stored on video or digital media) without substantive change, except that the reference to “best available evidence” is changed to “an accurate representation,” due to replacement of the Best Evidence Rule with the Secondary Evidence Rule.

Evid. Code § 1501 (repealed). Copy of lost or destroyed writing

Comment. Section 1501 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. As to oral testimony of the content of a writing that is lost or has been destroyed, the combined effect of former Sections 1501 and 1505 is continued in Section 1523 (oral testimony of content of writing) without substantive change.

Evid. Code § 1502 (repealed). Copy of unavailable writing

Comment. Section 1502 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. As to oral testimony of the content of a writing that was not reasonably procurable, the combined effect of Sections 1502 and 1505 is continued without substantive change in Section 1523 (oral testimony of content of writing).

Evid. Code § 1503 (repealed). Copy of writing under control of opponent

Comment. Section 1503 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. As to oral testimony of the content of a writing, the combined effect of former Section 1505 and the first sentence of subdivision (a) is continued without substantive change in Section 1523 (oral testimony of content of writing).

The requirement of the second sentence of subdivision (a) is continued without substantive change in Section 1522 (exclusion of secondary evidence in criminal action), except that Section 1522 applies that requirement to all requests for exclusion of secondary evidence in a criminal action.

Subdivision (b) is not continued, because it is subsumed in the general principle that parties are under no obligation to introduce evidence they subpoena. That principle remains unchanged even though the specific language of subdivision (b) is not continued.

Evid. Code § 1504 (repealed). Copy of collateral writing

Comment. Section 1504 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. As to oral testimony of the content of a collateral writing, the combined effect of former Sections 1504 and 1505 is continued without substantive change in Section 1523 (oral testimony of content of writing).

Evid. Code § 1505 (repealed). Other secondary evidence of writings described in Sections 1501-1504

Comment. Section 1505 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. Insofar as Section 1505 pertains to oral testimony of the content of a writing, it is continued without substantive change in Section 1523 (oral testimony of content of writing). See Comments to former Sections 1501-1504.

Evid. Code § 1506 (repealed). Copy of public writing

Comment. Section 1506 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. As to oral testimony of the content of a writing in the custody of a public entity, the combined effect of former Sections 1506 and 1508 is continued without substantive change in Section 1523 (oral testimony of content of writing).

Evid. Code § 1507 (repealed). Copy of recorded writing

Comment. Section 1507 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. As to oral testimony of the content of a writing that has been recorded in the public records, the combined effect of former Sections 1507 and 1508 is continued without substantive change in Section 1523 (oral testimony of content of writing).

Evid. Code § 1508 (repealed). Other secondary evidence of writings described in Sections 1506 and 1507

Comment. Section 1508 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. Insofar as Section 1508 pertains to oral testimony of the content of a writing, it is continued without substantive change in Section 1523 (oral testimony of content of writing). See Comments to former Sections 1506, 1507.

Evid. Code § 1509 (repealed). Voluminous writings

Comment. Section 1509 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. To the extent that Section 1509 provided a means of obtaining production of accounts or other writings for inspection, continuation of that aspect is unnecessary because other statutes afford sufficient opportunities for such inspection. *See, e.g.*, Code Civ. Proc. §§ 1985.3, 1987, 2020, 2031; Penal Code §§ 1054.1, 1054.3. Insofar as Section 1509 pertains to oral testimony of the content of voluminous writings, it is continued without substantive change in Section 1523 (oral testimony of content of writing).

Evid. Code § 1510 (repealed). Copy of writing produced at the hearing

Comment. Section 1510 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment.

Evid. Code § 1511 (repealed). Duplicate of writing

Comment. Section 1511 is repealed to reflect the repeal of the Best Evidence Rule. See Section 1521 Comment. Exceptions to the Secondary Evidence Rule are modeled on the exceptions in former Section 1511. See Section 1521(a) & Comment.

Evid. Code § 1520 (added). Proof of content of writing by original

Comment. Section 1520 continues former Section 1500 insofar as it permitted proof of the content of a writing by an original of the writing. See also Sections 1521 (Secondary Evidence Rule), 1522 (exclusion of secondary evidence in criminal action), 1523 (oral testimony of content of writing).

Evid. Code § 1521 (added). Proof of content of writing by secondary evidence (Secondary Evidence Rule)

Comment. Sections 1520 (proof of content of writing by original), 1521 (Secondary Evidence Rule), 1522 (exclusion of secondary evidence in criminal action), and 1523 (oral testimony of content of writing) replace the Best Evidence Rule and its exceptions. For background, see *Best Evidence Rule*, 26 Cal. L. Revision Comm'n Reports 369 (1996). Because of the breadth of the exceptions to the Best Evidence Rule, this reform is not a major departure from former law, but primarily a matter of clarification and simplification. Discovery principles remain unchanged.

Subdivision (a) makes secondary evidence generally admissible to prove the content of a writing. The nature of the evidence offered affects its weight, not its admissibility. The normal motivation of parties to support their cases with convincing evidence is a deterrent to introduction of unreliable secondary evidence. See also Section 412 (if party offers weaker and less satisfactory evidence despite ability to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust).

The mandatory exceptions set forth in subdivisions (a)(1) and (a)(2) provide further protection against unreliable secondary evidence. Those exceptions are modeled on the exceptions to former Section 1511 and to Rule 1003 of the Federal Rules of Evidence. Cases interpreting those statutes provide guidance in applying subdivisions (a)(1) and (a)(2). *See, e.g.*, *United States v. Sinclair*, 74 F.3d 753, 760-61 (7th Cir. 1996) (admitting copies of expense account reports was not unfair); *Ruberto v. Commissioner of Internal Revenue*, 774 F.2d 61, 64 (2d Cir. 1985) (tax court did not err in excluding photocopies of canceled checks, "since problems in matching the copies of the backs of the checks with copies of the fronts made them somewhat suspect"); *Amoco Production Co. v. United States*, 619 F.2d 1383, 1391 (10th Cir. 1980) (upholding trial court's determination that "admission of the file copy would be unfair because the most critical part of the original conformed copy ... is not completely reproduced in the 'duplicate'"); *People v. Garcia*, 201 Cal. App. 3d 324, 330, 247 Cal. Rptr. 94 (1988) (claim of unfairness "must be based on substance, not mere speculation that the original might contain some relevant difference"). Courts may consider a broad range of factors, for example: (1) whether the proponent attempts to use the writing in a

manner that could not reasonably have been anticipated, (2) whether the original was suppressed in discovery, (3) whether discovery conducted in a reasonably diligent (as opposed to exhaustive) manner failed to result in production of the original, (4) whether there are dramatic differences between the original and the secondary evidence (e.g., the original but not the secondary evidence is in color and the colors provide significant clues to interpretation), (5) whether the original is unavailable and, if so, why, and (6) whether the writing is central to the case or collateral. A classic circumstance for exclusion pursuant to subdivision (a)(2) is if the proponent destroyed the original with fraudulent intent or the doctrine of spoliation of evidence otherwise applies.

Subdivision (b) explicitly establishes that Section 1523 (oral testimony of the content of writing), not Section 1521, governs the admissibility of oral testimony to prove the content of a writing.

Subdivision (c) makes clear that like other evidence, secondary evidence is admissible only if it is properly authenticated. Under Section 1401, the proponent must not only authenticate the original writing, but must also establish that the proffered evidence is secondary evidence of the original. See B. Jefferson, *Jefferson's Synopsis of California Evidence Law*, § 30.1, at 470-71 (1985).

Evid. Code § 1522 (added). Exclusion of secondary evidence in criminal action

Comment. Subdivision (a) of Section 1522 sets forth a mandatory exception applicable only in criminal cases, which are governed by narrower discovery rules than civil cases. See Section 130 (“criminal action” includes criminal proceedings). See also Penal Code §§ 1054-1054.7 (discovery in criminal cases). Section 1522 does not expand discovery obligations, it simply conditions use of secondary evidence on making the original reasonably available for inspection if the proponent has it. In determining whether the proponent of secondary evidence has made the original “reasonably available,” the court should examine specific circumstances, such as the time, place, and manner of allowing inspection. The concept is fluid, not rigid. For example, making the original available moments before using secondary evidence may in general suffice if a defendant is rebutting a surprise contention, but not if the prosecution is presenting its case in chief. Similarly, what constitutes reasonable access to computer evidence may vary from system to system.

The exceptions in subdivisions (a)(1)-(a)(4) are drawn from exceptions to the former Best Evidence Rule (former Section 1500). Subdivision (a)(1) is drawn from former Section 1511. Subdivision (a)(2) is drawn from former Section 1504. Subdivision (a)(3) is drawn from former Section 1506. Subdivision (a)(4) is drawn from former Section 1507.

Subdivision (b) continues the requirement of the second sentence of former Section 1503(a), but applies it to all requests for exclusion of secondary evidence in a criminal trial.

See also Sections 1520 (proof of content of writing by original), 1521 (Secondary Evidence Rule), and 1523 (oral testimony of content of writing).

Evid. Code § 1523 (added). Oral testimony of content of writing

Comment. Section 1523 preserves former law governing the admissibility of oral testimony to prove the content of a writing. See former Sections 1500, 1501-1509.

Subdivision (a) is based on an assumption that oral testimony as to the content of a writing is typically less reliable than other proof of the content of a writing. For background, see *Best Evidence Rule*, 26 Cal. L. Revision Comm’n Reports 369 (1996).

Subdivision (b) continues former Sections 1501 and 1505 without substantive change as to oral testimony of the content of a writing that is lost or has been destroyed.

Subdivision (c)(1) continues former Sections 1502 and 1505 without substantive change as to oral testimony of the content of a writing that was not reasonably procurable. In effect, subdivision (c)(1) also continues former Sections 1503 and 1505 without substantive change as to oral testimony of the content of a writing that the opponent has, but failed to produce at the hearing despite being expressly or impliedly notified that it would be needed. Under such circumstances, the writing was not reasonably procurable. Finally, subdivision (c)(1) continues

former Sections 1506-1508 without substantive change as to oral testimony of the content of a writing where (1) the writing is in the custody of a public entity and the proponent could not have obtained it or a copy of it in the exercise of reasonable diligence, or (2) the writing has been recorded in the public records, the record or a certified copy of the writing is made evidence of the writing by statute, and the proponent could not have obtained it or a copy of it in the exercise of reasonable diligence. Subdivision (c)(2) continues former Sections 1504 and 1505 without substantive change as to oral testimony of the content of a collateral writing.

Subdivision (d) continues former Section 1509 without substantive change as to oral testimony of a voluminous writing.

See Sections 1520 (proof of content of writing by original), 1521 (Secondary Evidence Rule), and 1522 (exclusion of secondary evidence in criminal action).

Heading of Article 3 (commencing with Section 1550) (amended)

Comment. The article heading is amended to reflect the repeal of the Best Evidence Rule and the addition of Sections 1552 (computer printouts) and 1553 (printouts of images stored on video or digital media) to this article. See Comments to Section 1521 and former Sections 1500.5 and 1500.6.

Evid. Code § 1552 (added). Computer printout

Comment. Subdivision (a) of Section 1552 continues former Section 1500.5(c) without substantive change, except that the reference to “best available evidence” is changed to “an accurate representation,” due to the replacement of the Best Evidence Rule with the Secondary Evidence Rule. See Section 1521 Comment. See also Section 255 (accurate printout of computer data is an “original”).

Subdivision (b) continues former Section 1500.5(d) without substantive change.

Evid. Code § 1553 (added). Printout of images stored on video or digital media

Comment. Section 1553 continues the last three sentences of the second paragraph of former Section 1500.6 without substantive change, except that the reference to “best available evidence” is changed to “an accurate representation,” due to the replacement of the Best Evidence Rule with the Secondary Evidence Rule. See Section 1521 Comment.

FAM I L Y C O D E

Fam. Code § 400 (amended). Persons authorized to perform marriages

Comment. Section 400 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

FINANC I A L C O D E

Fin. Code § 1785 (amended). Foreign bank

Comment. Section 1785 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 1824 (amended). Appeal

Comment. Section 1824 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 1893 (amended). Possession by commissioner

Comment. Section 1893 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 3102 (amended). Appeal

Comment. Section 3102 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 16154 (amended). Appeal

Comment. Section 16154 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 17335 (amended). Appeal

Comment. Section 17335 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 18415.2 (amended). Appeal

Comment. Section 18415.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 18495 (amended). Appeal

Comment. Section 18495 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 31713 (amended). Possession by commissioner

Comment. Section 31713 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 34113 (amended). Possession by commissioner

Comment. Section 34113 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

FISH AND GAME CODE

Fish & Game Code § 210 (amended). Regulations

Comment. Section 210 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Fish & Game Code § 309 (amended). Depositions

Comment. Section 309 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fish & Game Code § 2357 (amended). Trout affidavit

Comment. Section 2357 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The amendment does not substitute a municipal court judge for the justice court judge.

Fish & Game Code § 4341 (amended). Deer tag

Comment. Section 4341 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The amendment does not substitute a municipal court judge for the justice court judge.

Fish & Game Code § 4755 (amended). License tag to be countersigned

Comment. Section 4755 is amended to reflect elimination of the office of justice of the peace.

Fish & Game Code § 5934 (amended). Depositions

Comment. Section 5934 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fish & Game Code § 12150 (amended). Hunting accidents

Comment. Section 12150 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). While a proceeding under this section is noncriminal in character, the procedures to be followed are sui generis. In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Fish & Game Code § 12151 (amended). Domestic animals

Comment. Section 12151 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). While a proceeding under this section is noncriminal in character, the procedures to be followed are sui generis. In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

FOOD AND AGRICULTURAL CODE

Food & Agric. Code § 7581 (amended). Court jurisdiction

Comment. Section 7581 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 7581 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 12647 (amended). Court jurisdiction

Comment. Section 12647 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 12647 increases the jurisdictional amount to \$25,000, consistent with

general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 25564 (amended). Abatement of nuisance

Comment. Section 25564 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Food & Agric. Code § 27601 (amended). Abatement of nuisance

Comment. Section 27601 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 27601 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 29733 (amended). Abatement of nuisance

Comment. Section 29733 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Food & Agric. Code § 30801 (amended). Dog licenses

Comment. Section 30801 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Food & Agric. Code § 31503 (amended). Damage by dog

Comment. Section 31503 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Food & Agric. Code § 31621 (amended). Dangerous or vicious dog

Comment. Section 31621 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Food & Agric. Code § 31622 (amended). Proceedings concerning dog

Comment. Section 31622 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Food & Agric. Code § 43039 (amended). Abatement of nuisance

Comment. Section 43039 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Food & Agric. Code § 52514 (amended). Court jurisdiction

Comment. Section 52514 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 52514 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 53564 (amended). Court jurisdiction

Comment. Section 53564 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases). The amendment to Section 53564 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited civil cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

Food & Agric. Code § 59289 (amended). Diversion or destruction of lot

Comment. Section 59289 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

GOVERNMENT CODE

Gov't Code § 910 (amended). Contents of claim

Comment. Section 910 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (limited civil cases) & Comment.

Gov't Code § 945.3 (amended). Action against peace officer

Comment. Section 945.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 990.2 (amended). Public officer insurance

Comment. Section 990.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 1770 (amended). Vacancy

Comment. Section 1770 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 3075 (added). Appeal in proceedings for removal from office

Comment. Section 3075 preserves the effect of pre-unification law that provides for appeals in superior court cases to the court of appeal. See Cal. Const. art. VI, § 11.

Gov't Code § 3501.6 (amended). Transfer of functions

Comment. Section 3501.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 6701 (amended). Holidays

Comment. Section 6701 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 11189 (amended). Depositions

Comment. Section 11189 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 11475.10 (added). Application of article

Comment. Section 11475.10 limits application of the Administrative Adjudication Code of Ethics to specified classes of hearing officers. See Section 11475.20 (application of Code of Judicial Ethics).

Subdivision (a)(1) includes not only an administrative law judge who presides at a hearing but also a supervisory or management level administrative law judge or chief administrative law judge, whose function may relate directly or indirectly to the adjudicative process.

This article does not apply to an agency head or hearing officer who presides in an administrative adjudication but who is not an administrative law judge, absent a special statute or regulation. See subdivision (a)(2). However, other ethical considerations apply to the hearing and nonhearing conduct of state agency presiding officers. See, e.g., Section 19572 (cause for discipline).

An agency may make the Administrative Adjudication Code of Ethics applicable to its non-administrative law judge presiding officers by regulation where this article would not otherwise apply. See Section 11410.40 (election to apply administrative adjudication provisions); see also Section 11405.80 ("presiding officer" defined).

Under subdivision (b), the Administrative Adjudication Code of Ethics applies to an administrative law judge even though the proceedings in which the administrative law judge presides might otherwise be statutorily exempt from this chapter. See, e.g., Section 15609.5 (State Board of Equalization); Pub. Util. Code § 1701 (Public Utilities Commission).

Gov't Code § 11475.20 (added). Application of Code of Judicial Ethics

Comment. Section 11475.20 applies the Code of Judicial Ethics in administrative adjudication. For the persons to which this article applies, see Section 11475.10 (application of article).

The Code of Judicial Ethics adopted by the Supreme Court is effective January 15, 1996. The incorporation by reference includes subsequent amendments and additions to the Code. Section 9.

It is intended that interpretations of the Code of Judicial Ethics in its application to the judicial system, whether made by court rule or decision, should also be applied in administrative adjudication, to the extent relevant to the circumstances of administrative adjudication. *Cf.* Section 11475.40 (provisions of Code excepted from application).

The Code of Judicial Ethics supplements other standards applicable to conduct of an administrative law judge, including disqualification for bias (Section 11425.40) and disciplinary action for failure of good behavior (Section 19572). See also Section 11475.50 & Comment (enforcement). These requirements are also in addition to the requirements pursuant to Chapter 9.5 (commencing with Section 89500) of Title 9, applicable to designated employees of state agencies, including administrative law judges and other presiding officers.

Gov't Code § 11475.30 (added). Terminology

Comment. Section 11475.30 provides a general guide to conversion of terminology in the Code of Judicial Ethics for application to administrative adjudication. It is intended to be applied in a manner to effectuate that general purpose without requiring strict or grammatically precise rigidity in the conversion. Likewise, terms not specified in this section should be converted in an appropriate manner to effectuate the general intent of this statute to apply the Code of Judicial Ethics to the circumstances of administrative adjudication.

Gov't Code § 11475.40 (added). Provisions of Code excepted from application

Comment. Section 11475.40 adapts the Code of Judicial Ethics for application to administrative law judges. Some provisions of the Code of Judicial Ethics, although not excepted by this section, may be minimally relevant to an administrative law judge. See, e.g., Canon 3C(4) (administrative responsibilities).

Subdivision (a) of Section 11475.40 excepts the portion of Canon 3B(7) relating to ex parte communications. It reflects the fact that special provisions, and not the Code of Judicial Ethics, govern ex parte communications in administrative adjudication. See, e.g., Article 7 (commencing with Section 11430.10).

Subdivision (b) excepts Canon 3B(10), relating to juries. It reflects the fact that juries are not used in administrative adjudication.

Subdivision (c) excepts Canon 3D(3), which requires a judge who is criminally charged to report that fact to the Commission on Judicial Performance. This duty is not relevant to administrative law judges, who are not under the jurisdiction of the Commission on Judicial Performance.

Subdivision (d) excepts Canon 4C, relating to governmental, civic, or charitable activities. An administrative law judge is not precluded from engaging in activities of this type, except to the extent the activities may conflict with general limitations on the administrative law judge's conduct. See, e.g., Canon 4A (extrajudicial activities in general).

Subdivision (e) excepts Canons 4E(1), 4F, and 4G, relating to fiduciary activities, private employment in alternative dispute resolution, and the practice of law. These matters are the subject of the employing agency's incompatible activity statement pursuant to Section 19990.

Subdivision (f) applies the introductory portion of Canon 5 to an administrative law judge or other presiding officer, but not Canons 5A-5D. Under this provision an administrative law judge or other presiding officer must avoid political activity that may create the appearance of political bias or impropriety. This would preclude participation in political activity related to an issue that may come before the administrative law judge or other presiding officer.

Subdivision (f) limits the political activities of administrative law judges even though other public employees might be able to participate in those activities under the *Hatch Act* (Sections 3201-3209). This subdivision is not intended to preclude an administrative law judge or other presiding officer to which this article applies from appearing at a public hearing or officially consulting with an executive or legislative body or public official in matters concerning the judge's private economic or personal interests, or to otherwise engage in political activities

relating to salary, benefits, and working conditions. *Cf.* Section 11475.70 (collective bargaining rights not affected).

Subdivision (g) excepts Canon 6, which is superseded by Sections 11475.50 (enforcement) and 11475.60 (compliance).

Gov't Code § 11475.50 (added). Enforcement

Comment. Section 11475.50 supersedes Canon 6A of the Code of Judicial Ethics. The compliance requirement is not precatory in administrative adjudication, but is mandatory.

Appropriate discipline under this section is the responsibility of the agency that employs the administrative law judge. Thus if an administrative law judge employed by the Office of Administrative Hearings violates the code of ethics in a hearing conducted for another agency, the Office of Administrative Hearings is the disciplining entity, and not the other agency. An agency may apply appropriate disciplinary procedures. It should be noted that a person may also institute disciplinary proceedings directly before the State Personnel Board with the consent of the board. Gov't Code § 19583.5; 2 Cal. Code Regs. § 51.9 (1996).

A violation of the code of ethics by the administrative law judge is not per se grounds for disqualification, or reversal of a decision, of the administrative law judge. But the violation may be indicative of the administrative law judge's violation of other procedural requirements. See, e.g., Section 11425.40 (disqualification of presiding officer for bias, prejudice, or interest).

Gov't Code § 11475.60 (added). Compliance

Comment. Section 11475.60 supersedes Canon 6F of the Code of Judicial Ethics.

Gov't Code § 11475.70 (added). Collective bargaining rights not affected

Comment. Section 11475.70 makes clear that the Administrative Adjudication Code of Ethics is not intended to interfere with collective bargaining rights guaranteed state employees under the Ralph C. Dills Act. These include the right to form, join, and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, to refuse to join or participate in the activities of employee organizations, or to represent themselves individually in their employment relations with the state. See Section 3515.

Gov't Code § 11511 (amended). Depositions

Comment. Section 11511 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 12965 (amended). Unlawful labor practices

Comment. Section 12965 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 12972 (amended). Commission procedures

Comment. Section 12972 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 12980 (amended). Procedure

Comment. Section 12980 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 15422 (amended). Public defender

Comment. Section 15422 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 18671 (amended). Hearings

Comment. Section 18671 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 23220 (amended). Courts in county after boundary change

Comment. Section 23220 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 23296 (amended). Municipal courts in transferred counties

Comment. Section 23296 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 23398 (amended). Municipal courts in transferred county

Comment. Section 23398 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 23579 (amended). Municipal courts in consolidated counties

Comment. Section 23579 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 24055 (amended). Fines and forfeitures

Comment. Section 24055 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 24057 (amended). Oaths

Comment. Section 24057 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 25351.3 (amended). Board of supervisors powers

Comment. Section 25351.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 25560.4 (amended). Court buildings

Comment. Section 25560.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26299.008 (amended). Court facilities

Comment. Section 26299.008 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26524 (amended). Judge as party defendant

Comment. Section 26524 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26665 (amended). Writs and notices

Comment. Section 26665 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26806 (amended). Interpreters

Comment. Section 26806 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 26820 (amended). Fees collected by clerk

Comment. Section 26820 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 26820.4 (amended). First filing fee

Comment. Section 26820.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 26824 (amended). Filing fee for appeal

Comment. Section 26824 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 26826 (amended). Filing fee for defendant

Comment. Section 26826 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 26826.01 (amended). Filing fee for amended complaint or cross-complaint

Comment. Section 26826.01 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 26863 (amended). Automation fee

Comment. Section 26863 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 27082 (amended). Found money

Comment. Section 27082 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 27647 (amended). Representation of judges by county counsel

Comment. Section 27647 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 27706 (amended). Duties of public defender

Comment. Section 27706 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 28003 (amended). Payment of salaries

Comment. Section 28003 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 29603 (amended). County charges

Comment. Section 29603 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 29605 (repealed). Charges and accounts for services

Comment. Section 29605 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 29610 (amended). Expenses

Comment. Section 29610 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 31469 (amended). Definitions

Comment. Section 31469 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 41606 (amended). Fee for service of process

Comment. Section 41606 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b). For service of process by a sheriff, see Section 26721. See also Section 71266 (marshal's fees); former Section 27821 (constable's fees).

Gov't Code § 50920 (amended). "Peace officer" defined

Comment. Section 50920 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 53069.4 (amended). Violation of ordinance

Comment. Section 53069.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Gov't Code § 53075.6 (amended). Taxicab certificates

Comment. Section 53075.6 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Gov't Code § 53075.61 (amended). Transportation inspector

Comment. Section 53075.61 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Gov't Code § 53679 (amended). Deposits

Comment. Section 53679 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68071 (amended). Court rules

Comment. Section 68071 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68072 (amended). Court rules

Comment. Section 68072 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68074.1 (amended). Seals

Comment. Section 68074.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68078 (repealed). Seal

Comment. Section 68078 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68081 (amended). Appellate decisions

Comment. Section 68081 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Gov't Code § 68084 (amended). Deposits

Comment. Section 68084 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68086 (amended). Fees

Comment. Section 68086 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68090.7 (amended). Fees

Comment. Section 68090.7 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68093 (amended). Witness fees

Comment. Section 68093 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68098 (amended). Witness fees

Comment. Section 68098 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68108 (amended). Furlough days

Comment. Section 68108 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68112 (amended). Coordination plans

Comment. Section 68112 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68114 (amended). Presiding judge

Comment. Section 68114 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68114.5 (amended). Executive committee

Comment. Section 68114.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68114.6 (amended). Chief administrative officer

Comment. Section 68114.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68115 (amended). Emergencies

Comment. Section 68115 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68152 (amended). Destruction of court records

Comment. Section 68152 is amended:

(1) To accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

(2) To reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

(3) To reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Notwithstanding the deletion of the reference to justice courts, justice court judgments will continue to be retained for the appropriate period of time depending upon the underlying action.

Gov't Code § 68202.5 (repealed). Salary

Comment. Section 68202.5 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68206.2 (amended). State reimbursement

Comment. Section 68206.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68505 (amended). Clerks

Comment. Section 68505 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68513 (amended). Uniform court data in civil cases in superior court

Comment. Section 68513 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 68540 (amended). Compensation

Comment. Section 68540 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68541 (repealed). Compensation

Comment. Section 68541 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68542 (amended). Travel expenses outside county

Comment. Section 68542 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68542.5 (amended). Travel expenses inside county

Comment. Section 68542.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68546 (amended). Cross-assignments

Comment. Section 68546 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68551 (amended). Orientation for new judges

Comment. Section 68551 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68620 (amended). Delay reduction

Comment. Section 68620 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 68902 (amended). Publication of opinions

Comment. Section 68902 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Gov't Code § 69510 (amended). Superior court sessions in non-unified counties

Comment. Section 69510 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 69741.7 (repealed). Superior court sessions at justice courts

Comment. Section 69741.7 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). *Cf.* Section 69510 (superior court sessions in non-unified counties).

Gov't Code § 69744.5 (amended). Superior court sessions

Comment. Section 69744.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 (“judicial district” defined, subject to contrary statute).

Gov't Code § 69746.5 (amended). Superior court sessions

Comment. Section 69746.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 (“judicial district” defined, subject to contrary statute).

Gov't Code § 69753 (amended). Superior court sessions under coordination plans

Comment. Section 69753 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 69957 (amended). Official reporter acting pro tem

Comment. Section 69957 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 70141 (amended). Court commissioners

Comment. Section 70141 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 70200 (added). Unification voting procedure provided in this article

Comment. Section 70200 reiterates authority provided in Constitution Article VI, Section 5(e), for unification of the municipal and superior courts in a county. The implementation of the unification procedure is vested in the Legislature by Constitution Article VI, Section 23 (purpose of constitutional amendment is to permit Legislature to provide for unification).

For the operative date of a vote for unification, see Section 70202.

Gov't Code § 70200.5 (added). Conduct of vote

Comment. Section 70200.5 does not specify a manner of voting (e.g., secret ballot). This matter is left to Judicial Council rules. See Section 70200(c).

Gov't Code § 70201 (added). Certification of results

Comment. In the case of a vote against unification of the municipal and superior courts in a county, Section 70201 does not preclude a later vote in favor of unification, subject to Judicial Council rules governing the frequency of vote calls. See Section 70200(c).

Gov't Code § 70202 (added). Operative date of unification

Gov't Code § 70210 (added). Transitional rules of court

Comment. Section 70210 mandates that the Judicial Council adopt rules of court to coordinate and guide the trial courts in effectively implementing trial court unification. The rules adopted by the Judicial Council may not be inconsistent with statute, including Section 77001, which requires that the Judicial Council promulgate rules that establish a decentralized system of trial court management and ensure that the trial court of each county establishes the means of selecting presiding judges and executive officers.

Subdivision (a) provides generally that the rules will ensure the orderly conversion of proceedings in the unified superior court as of the date the municipal and superior courts in a county are unified.

Subdivision (b) provides for the selection of the presiding judge, court executive officer, and appropriate committees or working groups to assist the presiding judge. The method of selection, and the specific duties and authorities for each will be set forth in the rules, as is currently the case in existing Rules 204, 205, 207, 532.5, and 532.6 of the California Rules of Court. This preserves the balance of power that currently exists between the legislature and the judiciary.

Subdivision (c) is intended to encourage the presiding judge to work closely with the court executive officer and court committees or other working groups to implement unification decisions.

Subdivision (d) provides that the courts will develop and adopt a personnel plan. The section parallels Rule 205(11).

Subdivision (e) provides for local rule adoption. As under current practice, the Judicial Council will determine which procedural issues shall be addressed by local rule and which by statewide rule. *Cf.* Section 68070 (Judicial Council shall adopt rules or procedures to encourage uniformity of requirements throughout a court and statewide).

Examples of issues that may be addressed by rule of court under subdivision (f) include the development of informational programs for the public and the Bar about unification, and education and training programs for judicial officers and court staff to facilitate the effective transition to a unified court.

Gov't Code § 70211 (added). Effect of unification on judgeships

Comment. Subdivision (a) of Section 70211 restates the first sentence of Constitution Article VI, Section 23(b), with the addition of a provision maintaining the total number of judgeships in the county. The Legislature prescribes the number of judges. Cal. Const. art. VI, §§ 4, 5.

The first sentence of subdivision (b) restates the second sentence of Constitution Article VI, Section 23(b). The second sentence makes clear that the “term of office” of a previously selected municipal court judge is to be determined by reference to statutes governing the tenure in office of a municipal court judge. See Gov't Code §§ 71141, 71145, 71180. The third and fourth sentences of subdivision (b) provide guidance in applying timing rules for judicial elections during the transition from municipal to superior court. For the timing of municipal court elections, see Government Code Sections 71141, 71145, 71180; for the timing of superior court elections, see Constitution Article VI, Section 16(b), (c).

Under the rules provided in subdivision (b), an appointed municipal court judge who at the time of unification would have been entitled to hold office for the remainder of a term, is entitled to hold office as a superior judge for the same period. If the vacancy to which the judge was appointed occurs within 10 months of the general election preceding the end of the term, the judge would be entitled to hold office until the next succeeding general election, notwithstanding an intervening unification. See Gov't Code § 71180(a). These transitional rules apply only until the first election after unification, or until the incumbent judge at the time of unification leaves office, whichever occurs first. Thereafter standard rules governing tenure and election of superior court judges apply in the unified court.

Subdivision (c) restates the third sentence of Constitution Article VI, Section 23(b).

The references in this section to a “previously selected” judge includes selection by election or by appointment to fill a vacancy. *Cf. Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1, 82 (1994) (Article VI, § 23(b) Comment).

Gov't Code § 70212 (added). Transitional provisions

Comment. Subdivisions (a)-(f) of Section 70212 restate Constitution Article VI, Section 23(c). Although embodied in the Constitution, these provisions are subject to variation by statute. See Cal. Const. art. VI, § 23(c) (introductory clause).

The reference in subdivision (a) to officers, employees, and other personnel who serve the court includes court commissioners, traffic referees, court reporters, and all other municipal court personnel. See *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1, 82 (1994) (Article VI, § 23(c)(1) Comment) (“Among the previously selected officers, employees, and other personnel who serve the court and who become officers and employees of the superior court pursuant to subdivision (c)(1) are persons such as commissioners and referees appointed to perform subordinate judicial duties as provided for pursuant to Section 22 (subordinate judicial officers), court reporters, interpreters and translators, court clerks, and sheriffs, marshals, and constables.”)

Subdivision (g) makes clear that process issued by a municipal court remains enforceable by the superior court after unification.

Subdivision (h) is drawn from Section 71003 (powers of municipal court judge). Under this provision, if a statute provides for remand to or other proceedings in, or before a judge of, a municipal court that no longer exists as a result of the unification of the municipal and superior courts in a county, the proceedings are in the superior court in the county.

Gov't Code § 70213 (added). Judicial Council forms and rules

Comment. Section 70213 is intended to provide transitional Judicial Council rulemaking authority on procedural matters and not on matters of substantive law. The rules adopted by the Judicial Council may not be inconsistent with statute. Cal. Const. art. VI, § 6. See also Section 68070(b) (“The Judicial Council shall adopt rules or procedures to encourage uniformity of requirements throughout a court and statewide.”).

Gov't Code § 70214 (added). Commissioners and referees

Comment. Section 70214 maintains the total authorized number of court commissioners and traffic referees or traffic trial commissioners in the county on unification of the municipal and superior courts in the county. For existing authority to appoint superior court commissioners, see Section 70141 et seq. Existing authority to appoint municipal court commissioners is found among county-specific statutes in the Government Code governing municipal courts. *Cf.* Sections 72000-74991. For existing authority to appoint municipal court traffic referees, see Section 72400.

Gov't Code § 70215 (added). County-specific legislation

Comment. Section 70215 is added to accommodate prompt unification of the municipal and superior courts in a county when approved by a majority of the judges of those courts. Cal. Const. art. VI, § 5(e). If the courts in a particular county elect to unify, the codes should be reviewed at that time to determine whether special statutes relating to the courts in that county should be revised or repealed. Section 70215 provides guidance pending enactment of such legislation.

The reference to officers, employees, and other personnel who serve the court includes court commissioners, traffic referees, court reporters, and all other municipal court personnel. See *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1, 82 (1994) (Article VI, § 23(c)(1) Comment) ("Among the previously selected officers, employees, and other personnel who serve the court and who become officers and employees of the superior court pursuant to subdivision (c)(1) are persons such as commissioners and referees appointed to perform subordinate judicial duties as provided for pursuant to Section 22 (subordinate judicial officers), court reporters, interpreters and translators, court clerks, and sheriffs, marshals, and constables.")

Gov't Code § 70216 (added). Unification during municipal court election

Comment. Section 70216 is added to clarify how Article VI, Section 23 of the Constitution applies where unification occurs during a municipal court election.

Under subdivision (a), the election proceeds as originally planned, helping to promote an orderly transition to unification. Cal. Const. art. VI, § 23(a).

Under subdivision (b), the winner of the election is a previously selected municipal court judge, and thus becomes a superior court judge through unification. Cal. Const. art. VI, § 23(b).

Subdivision (c) makes clear that Section 70216 applies where unification occurs between (1) the first day for filing a declaration of intention to become a candidate for a municipal court judgeship, and (2) the day of the general election. See Elec. Code §§ 8020 (nomination documents "shall first be available on the 113th day prior to the direct primary election"), 8022 (declaration of intention to become a candidate shall be filed "not more than 14 nor less than five days prior to the first day on which nomination papers may be presented for filing").

Gov't Code § 70219 (added). Judicial Council and Law Revision Commission studies and recommendations

Comment. Section 70219 is intended to provide an institutional mechanism for continuing improvement of judicial administration and procedure in light of unification of the courts. Issues identified by the California Law Revision Commission as appropriate for future study in its report on trial court unification, and recommended primary and joint responsibility of the Judicial Council and Law Revision Commission, may be found in *Trial Court Unification: Revision of Codes*, 28 Cal L. Revision Comm'n Reports 51 (1998). The studies include such matters as repeal of obsolete statutes relating to expired pilot projects and prior court and personnel restructurings, reorganization of statutes governing court fees, adjustment of jurisdictional limits for economic litigation and small claims procedures, clarification of provisions appearing to give municipal and superior courts concurrent jurisdiction in certain cases, and cataloging cases within the appellate jurisdiction of the courts of appeal on June 30, 1995.

Heading of Chapter 6 (commencing with Section 71001) (amended)

Comment. The heading of Chapter 6 (commencing with Section 71001) of Title 8 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71002 (amended). Municipal court quarters

Comment. Section 71002 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71004 (amended). Municipal court clerk powers

Comment. Section 71004 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71010 (amended). Municipal court management review

Comment. Section 71010 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71040 (amended). Municipal court districts

Comment. Section 71040 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

In a county in which the superior and municipal courts have unified, a statutory reference to a judicial district means the county rather than a former municipal court district (unless the provision or context requires otherwise). See Code Civ. Proc. § 38 & Comment.

Gov't Code § 71042.5 (amended). Preservation of judicial districts for purpose of publication

Comment. Section 71042.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). This preserves the effect of statutes that specify publication by judicial district, rather than by county. See, e.g., Bus. & Prof. Code § 21707; Civ. Code §§ 2924f, 3440.1, 3440.5; Code Civ. Proc. §§ 701.540, 1208.5; Com. Code §§ 6105, 7210; Rev. & Tax. Code §§ 3381, 3702. *Cf.* Code Civ. Proc. § 38 (“judicial district” defined, subject to contrary statute).

Gov't Code § 71045 (amended). Municipal court names

Comment. Section 71045 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080 (amended). Establishment of municipal court

Comment. Section 71080 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080.5 (repealed). Shasta County judicial election

Comment. Section 71080.5 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080.6 (repealed). Glenn County judicial election

Comment. Section 71080.6 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71080.7 (repealed). Lassen County judicial election

Comment. Section 71080.7 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71083 (amended). Judicial district annexation

Comment. Section 71083 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). It is also amended to eliminate an obsolete transitional provision.

Gov't Code § 71084 (repealed). Justice court superseded by municipal court

Comment. Section 71084 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71085 (amended). Municipal court employees

Comment. Section 71085 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71087 (repealed). Election of marshal

Comment. Section 71087 is repealed to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71088 (amended). Municipal court bailiffs

Comment. Section 71088 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71091 (amended). Employees of municipal courts

Comment. Section 71091 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71091.1 (repealed). Glenn County judicial election

Comment. Section 71091.1 is repealed to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71092 (amended). Employees in superseded municipal court

Comment. Section 71092 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71093 (amended). Employees in superseded municipal court

Comment. Section 71093 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71094 (amended). Employees in superseded municipal court

Comment. Section 71094 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71095 (amended). Court records

Comment. Section 71095 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71096 (repealed). Annexation of judicial district

Comment. Section 71096 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71097 (repealed). Annexation of judicial district

Comment. Section 71097 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71098 (amended). Pending actions

Comment. Section 71098 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71099 (amended). Prosecution of misdemeanors

Comment. Section 71099 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71100 (amended). Duties relating to misdemeanor charges

Comment. Section 71100 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71140 (amended). Municipal judge residency

Comment. Section 71140 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71141 (amended). Municipal judge elections

Comment. Section 71141 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71143 (amended). Municipal judge elections

Comment. Section 71143 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71145 (amended). Municipal judge term

Comment. Section 71145 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71180.3 (repealed). Selection of judges

Comment. Section 71180.3 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71180.4 (repealed). Appointment of judge

Comment. Section 71180.4 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71180.5 (amended). Retirement notification

Comment. Section 71180.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71181 (amended). Vacancies

Comment. Section 71181 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71181.1 (repealed). Tulare County clerk of justice court

Comment. Section 71181.1 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71220 (amended). Salaries

Comment. Section 71220 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71221 (amended). Certification of compensation

Comment. Section 71221 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 7 (commencing with Section 71260) (amended)

Comment. The heading of Article 7 (commencing with Section 71260) of Chapter 6 of Title 8 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71264 (amended). Marshals

Comment. Section 71264 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71267 (amended). Revolving fund

Comment. Section 71267 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280 (amended). Clerk's powers

Comment. Section 71280 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.1 (amended). Minutes

Comment. Section 71280.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.2 (amended). Minutes

Comment. Section 71280.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.3 (amended). Indexes to court records

Comment. Section 71280.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.4 (amended). Endorsement

Comment. Section 71280.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71280.5 (amended). Criminal conviction records

Comment. Section 71280.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 71340 (amended). Sessions

Comment. Section 71340 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71341 (amended). Sessions

Comment. Section 71341 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Article 10 (commencing with Section 71380) (amended)

Comment. The heading of Article 10 (commencing with Section 71380) of Chapter 6 of Title 8 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71380 (amended). Duty of State Controller

Comment. Section 71380 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71381 (amended). Audits

Comment. Section 71381 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71382 (amended). Failure to keep accounts

Comment. Section 71382 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71384 (amended). Audits

Comment. Section 71384 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 71386 (amended). Checks and money orders

Comment. Section 71386 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code §§ 71600-71704 (repealed). Justice courts

Comment. Sections 71600-71704 are repealed to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Chapter 8 (commencing with Section 72000) (amended)

Comment. The chapter heading of Chapter 8 (commencing with Section 72000) is amended to reflect the fact that some of the provisions of the chapter may apply in the superior court in a county in which there is no municipal court. See, e.g., Sections 72055-72060 (fees), 72301-72302 (bail). Application of any specific provision is to be determined by the provision and not by the chapter heading. See Section 6 (headings do not affect scope, meaning, or intent of provisions).

Gov't Code § 72055 (amended). First filing fee in limited civil cases

Comment. Section 72055 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72056 (amended). First filing fee in limited civil cases

Comment. Section 72056 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72056.01 (amended). Filing fee for amended complaint or cross-complaint

Comment. Section 72056.01 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72056.1 (amended). Additional fee for judges' retirement fund

Comment. Section 72056.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72060 (amended). Fee in limited civil appeals

Comment. Section 72060 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments.

Gov't Code § 72190 (amended). Commissioners

Comment. Section 72190 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The reference in the first part of the second paragraph to retired justice court commissioners is retained because it may have continued significance despite the elimination of the justice court.

Gov't Code § 72190.1 (amended). Arraignments

Comment. Section 72190.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72190.2 (amended). Bench warrants

Comment. Section 72190.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72193 (amended). City prosecutor

Comment. Section 72193 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 72194.5 (amended). Electronic recording

Comment. Section 72194.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. §§ 85, 85.1 (limited civil cases) & Comments, and Pen. Code § 691 (misdemeanor or infraction case). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72196 (amended). Pro tempore court reporters

Comment. Section 72196 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72197 (amended). Duties of pro tempore court reporters

Comment. Section 72197 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72198 (amended). Compensation of court reporters

Comment. Section 72198 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72301 (amended). Open for business at all hours for bail purposes

Comment. Section 72301 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 72302 (amended). Acceptance of bail

Comment. Section 72302 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Gov't Code § 72604 (amended). Official reporters

Comment. Section 72604 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 72785 (repealed). Catalina justice court district

Comment. Section 72785 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 75101 (amended). Retirement fund

Comment. Section 75101 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 75103 (amended). Retirement deductions

Comment. Section 75103 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 75602 (amended). Retirement deductions (System II)

Comment. Section 75602 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 77003 (amended). Court operations defined

Comment. Section 77003 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Gov't Code § 77007 (amended). "Trial court" defined

Comment. Section 77007 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

HARBORS AND NAVIGATION CODE

Harb. & Nav. Code § 664 (amended). Arrest procedures

Comment. Section 664 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Harb. & Nav. Code § 667 (amended). Place of trial

Comment. Section 667 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

HEALTH AND SAFETY CODE

Health & Safety Code § 108580 (amended). Condemnation proceedings

Comment. Section 108580 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Health & Safety Code § 111880 (amended). Condemnation proceedings

Comment. Section 111880 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Health & Safety Code § 111895 (amended). Condemnation or destruction

Comment. Section 111895 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). Whether a proceeding under this section is treated as a limited civil case or otherwise depends on the designation made by the person bringing it.

Health & Safety Code § 117070 (amended). Jurisdiction for prosecution of violations

Comment. Section 117070 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Health & Safety Code § 117120 (amended). Jurisdiction for prosecution of violations

Comment. Section 117120 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

INSURANCE CODE

Ins. Code § 12961 (amended). Annual report of tort actions

Comment. Section 12961 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

LABOR CODE

Lab. Code § 98 (amended). Investigations and hearings regarding employee complaints

Comment. Section 98 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Lab. Code § 98.2 (amended). Review and enforcement of decision

Comment. Section 98.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Lab. Code § 123.6 (amended). Workers' compensation referees

Comment. Section 123.6 is amended to reflect the fact that the California Code of Judicial Conduct adopted by the Conference of California Judges is superseded by the Code of Judicial Ethics adopted by the Supreme Court pursuant to subdivision (m) of Section 18 of Article VI of the Constitution.

The reference in subdivision (a) to settlement conference referees is deleted as obsolete; statutory authority for this classification no longer exists.

Lab. Code § 3352 (amended). Persons not "employees"

Comment. Section 3352 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Lab. Code § 5710 (amended). Depositions

Comment. Section 5710 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Lab. Code § 6613 (amended). Depositions

Comment. Section 6613 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

MILITARY AND VETERANS CODE

Mil. & Vet. Code § 467 (amended). Collection and disposition of fines and penalties

Comment. Section 467 is amended to reflect elimination of the justices' court. Cal. Const. art. VI, §§ 1, 5.

PENAL CODE

Penal Code § 97 (repealed). Purchase of judgment

Comment. Section 97 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 190.9 (amended). Record in death penalty cases

Comment. Section 190.9 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section provides special procedures for certifying transcripts in death penalty cases. The policy is to ensure that all preliminary proceedings have been reported and transcribed before a capital trial commences, whether the preliminary proceedings are conducted in municipal court or in superior court.

Penal Code § 682 (amended). Prosecution by indictment or information

Comment. Section 682 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). All misdemeanors and infractions must be prosecuted by complaint. See Section 740.

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 691 (amended). Definitions

Comment. Section 691 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The revision of this and other statutes to accommodate unification of the municipal and superior courts in a county is intended generally to preserve existing procedures for criminal cases by replacing references to superior court criminal cases with references to felony cases, and by replacing references to municipal court criminal cases with references to misdemeanor and felony cases.

The phrase “inferior court” is eliminated to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). It is replaced throughout the code with a reference to the municipal court or, in a county in which there is no municipal court, the superior court. In the case of a reference to a public offense triable in an inferior court, it is replaced with a reference to a misdemeanor or infraction.

Subdivision (c) is revised to delete the specification of courts in which a complaint is filed. For definitional purposes, it is sufficient to identify a “complaint” as a type of accusatory pleading.

Subdivisions (f) and (g) are added for drafting convenience. A criminal action that includes a felony charge is treated as a felony case notwithstanding the joinder of misdemeanor or infraction charges.

Penal Code § 726 (amended). Unlawful or riotous assembly

Comment. Section 726 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 737 (amended). Felonies prosecuted by indictment or information

Comment. Section 737 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Willful or corrupt misconduct in office by a local public official is punishable by removal from office under Government Code Section 3060 *et seq.* It is an offense triable in the superior court and is prosecuted by accusation. A trial under Government Code Section 3060 is conducted in all

respects in the same manner as the trial of an indictment. Gov't Code § 3070. Appeal is to the court of appeal. Gov't Code § 3075.

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 740 (amended). Misdemeanors and infractions

Comment. Section 740 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 804 (amended). Commencement of prosecution

Comment. Section 804 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 806 (amended). Written complaint

Comment. Section 806 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 808 (amended). Magistrates

Comment. Section 808 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 810 (amended). Magistrate on call

Comment. Section 810 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 813 (amended). Arrest warrant or summons

Comment. Section 813 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The magistrate may issue a warrant based on a complaint alleging a felony.

Penal Code § 827 (amended). Felony triable in another county

Comment. Section 827 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). A magistrate may issue a warrant based on a complaint alleging a felony.

Penal Code § 829 (amended). Misdemeanor or infraction triable in another county

Comment. Section 829 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 830.1 (amended). Peace officers

Comment. Section 830.1 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 832.4 (amended). Peace officer standards and training

Comment. Section 832.4 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 851.8 (amended). Sealing arrest records

Comment. Section 851.8 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court (Cal. Const. art. VI, §§ 1, 5(b)); the creation of the appellate division of the superior court (Cal. Const. art. VI, § 4); and elimination of the term “district” from the name of the courts of appeal (Cal. Const. art. VI, § 3).

Penal Code § 859 (amended). Counsel for defendant

Comment. Section 859 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The amendment also deletes language that conflicts with Section 14 of Article 1 of the Constitution (magistrate shall require peace officer to transmit message to counsel within county).

Penal Code § 859a (amended). Pleading

Comment. Section 859a is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 859c (added). Review of challenged ruling or order by different judge

Comment. Section 859c is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It preserves the policy of Article VI, Section 23(c)(7) of the Constitution (preserving single judge review of preliminary criminal matters). *Cf.* Sections 995 (setting aside indictment or information); 1538.5 (motion to suppress). See also Gov’t Code § 70212(f) (transitional provisions).

Penal Code § 860 (amended). Examination of case

Comment. Section 860 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The amendment ensures no change in the availability of counsel in the superior court.

Willful or corrupt misconduct in office by a local public official is punishable by removal from office under Government Code Section 3060 *et seq.* It is a non-felony offense within the jurisdiction of the superior court, for which there is no examination before a magistrate.

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See *Welf. & Inst. Code* §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 869 (amended). Report of examination

Comment. Section 869 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 872.5 (repealed). Best Evidence Rule in preliminary examination

Comment. Former Section 872.5 is repealed to reflect the repeal of the Best Evidence Rule and adoption of the Secondary Evidence Rule. See *Evid. Code* §§ 1520-1523 & Comments. See also new Section 872.5.

Penal Code § 872.5 (added). Secondary evidence in preliminary examination

Comment. Section 872.5 is added to reflect the repeal of the Best Evidence Rule and adoption of the Secondary Evidence Rule. See *Evid. Code* §§ 1520-1523 & Comments. See also former Section 872.5.

Penal Code § 949 (amended). First pleading by people

Comment. Section 949 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

The reference to a complaint filed in accordance with the provisions of Section 272 is deleted as obsolete. Section 272 is no longer part of the Juvenile Court Law and does not include special provisions for filing a complaint. *Cf.* former Welf. & Inst. Code § 702. Section 272 is now a misdemeanor within the original jurisdiction of the municipal court or, in a county in which there is no municipal court, the superior court. Section 1462.

A trial under Government Code Section 3060 (removal of public official from office) is conducted in all respects in the same manner as the trial of an indictment. Gov't Code § 3070. Appeal is to the court of appeal. Gov't Code § 3075.

Penal Code § 977 (amended). Presence of defendant and counsel

Comment. Section 977 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 977.2 (amended). Pilot project

Comment. Section 977.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Penal Code § 977.4 (amended). Santa Barbara County pilot project

Comment. Section 977.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Penal Code § 987.1 (amended). Representation by counsel

Comment. Section 987.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 987.2 (amended). Compensation of assigned counsel

Comment. Section 987.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

This section does not create a right to appointment of counsel in an infraction case to the extent the right is limited by Section 19.6.

Penal Code § 988 (amended). Arraignment

Comment. Section 988 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 990 (amended). Time to answer

Comment. Section 990 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1000 (amended). Eligibility for deferred entry of judgment

Comment. Section 1000 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1007 (amended). Demurrer

Comment. Section 1007 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1009 (amended). Amendment of accusatory pleading

Comment. Section 1009 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1010 (amended). Dismissal due to defective or insufficient indictment or information

Comment. Section 1010 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1016 (amended). Pleas

Comment. Section 1016 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1038 (amended). Judicial Council rules

Comment. Section 1038 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. See also Code Civ. Proc. § 38 & Comment (“judicial district” defined).

Subdivision (b) makes clear that even though a misdemeanor or infraction case is triable in the superior court in a county in which there is no municipal court, there may be circumstances where it is appropriate to transfer the case for trial within the same county rather than to another county. This parallels statutory authority for change of venue in municipal court to another judicial district in the same county. See Sections 1034, 1035. Subdivision (b) is a specific instance of the general authority of the Judicial Council provided in subdivision (a), and is not intended to limit the general authority of the Judicial Council to adopt any appropriate change of venue rules under subdivision (a).

Penal Code § 1039 (added). Change of venue in county with no municipal court

Comment. Section 1039 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. It recognizes that transfer of a misdemeanor or infraction case may occur between a superior and municipal court if the courts in one but not both counties have unified. *Cf.* Section 1462 (misdemeanor jurisdiction in municipal court or superior court in county in which there is no municipal court).

Penal Code § 1050 (amended). Expediting trial

Comment. Section 1050 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1130 (amended). Failure of prosecuting attorney to attend

Comment. Section 1130 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1150 (amended). General verdict of jury

Comment. Section 1150 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Penal Code § 1187 (amended). Order arresting judgment

Comment. Section 1187 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 1191 (amended). Time for pronouncing judgment

Comment. Section 1191 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Penal Code § 1203.1 (amended). Probation

Comment. Section 1203.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 1203.1c (amended). Cost of incarceration

Comment. Section 1203.1c is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1214 (amended). Enforcement

Comment. Section 1214 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). New subdivision (c) continues the policy of former Code of Civil Procedure Section 86(a)(11), which provided that the municipal court had original jurisdiction in all actions to enforce restitution orders or restitution fines that were imposed by the municipal court (without any limitation on amount in controversy). In certain criminal cases, a municipal court could impose a restitution order or restitution fine. See Penal Code § 1462 (municipal court jurisdiction; pronouncing judgment in noncapital criminal case). In a county in which there is no municipal court, Penal Code Section 1462(d) gives the superior court the jurisdiction provided in Section 1462(a)-(b). Thus, new subdivision (c) of this section accommodates trial court unification and continues the effect of former law.

See Code of Civil Procedure §§ 85 (limited civil cases), 86(a)(8) (enforcement of judgment in limited civil case).

Heading of Title 9 (commencing with Section 1235) (amended)

Comment. The heading of Title 9 (commencing with Section 1235) of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 1235 (amended). Appeal on questions of law

Comment. Section 1235 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Section 691(f) (“felony case” defined).

Subdivision (b) continues former Section 1466(b). Appeals in felony cases lie to the court of appeal, regardless of whether the appeal is from the superior court, the municipal court, or the action of a magistrate. *Cf.* Cal. Const. art. VI, § 11(a) (court of appeal appellate jurisdiction when superior courts have original jurisdiction and in other causes provided by statute).

Penal Code § 1269 (amended). Taking of bail

Comment. Section 1269 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The reference to the effective date of the 1955 amendment of the section is deleted as obsolete.

Penal Code § 1269b (amended). Bail proceedings

Comment. Section 1269b is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1278 (amended). Form of undertaking

Comment. Section 1278 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1281a (amended). Bail in felony cases

Comment. Section 1281a is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1309 (repealed). Unclaimed deposit

Comment. Former Section 1309 is not continued. It is superseded (and was impliedly repealed by) Section 1463 *et seq.*

Penal Code § 1327 (amended). Form of subpoena

Comment. Section 1327 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1368.1 (amended). Demurrers and other motions

Comment. Section 1368.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1382 (amended). Time for bringing case to trial

Comment. Section 1382 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1417.7 (amended). Photographic records of exhibits

Comment. Section 1417.7 is amended to reflect the repeal of the Best Evidence Rule and the adoption of the Secondary Evidence Rule. See Evid. Code §§ 1520-1523 & Comments. Section 1417.7 is also amended to make technical changes.

Penal Code § 1424 (amended). Motion to disqualify district attorney

Comment. Section 1424 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Heading of Title 11 (commencing with Section 1427) (amended)

Comment. The heading of Title 11 (commencing with Section 1427) of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Heading of Chapter 1 (commencing with Section 1427) (amended)

Comment. The heading of Chapter 1 (commencing with Section 1427) of Title 11 of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1427 (amended). Arrest warrant

Comment. Section 1427 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1428 (amended). Docket

Comment. Section 1428 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The provision applies only to municipal court dockets.

Penal Code § 1429 (amended). Misdemeanor plea

Comment. Section 1429 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1429.5 (amended). Procedure in case of plea not guilty by reason of insanity

Comment. Section 1429.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The procedure in this section — which requires that the issue of insanity be tried in the superior court — has relevance only in a county with a municipal court. One consequence of unification is that under this section misdemeanor cases in a unified court will receive the same treatment as felony cases, resulting in a discretionary rather than automatic new jury.

Penal Code § 1447 (amended). Malicious prosecution

Comment. Section 1447 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1449 (amended). Pronouncement of judgment

Comment. Section 1449 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1458 (amended). Bail undertaking by personal sureties

Comment. Section 1458 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1459 (amended). Bail undertaking by admitted surety insurers

Comment. Section 1459 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 1462 (amended). Municipal and superior court jurisdiction

Comment. Section 1462 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The revision of this and other statutes to accommodate unification of the municipal and superior courts in a county is intended generally to preserve existing procedures for criminal cases by replacing references to superior court criminal cases with references to felony cases, and by replacing references to municipal court criminal cases with references to misdemeanor and felony cases.

The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See *Welf. & Inst. Code* §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 1462.1 (repealed). Concurrent jurisdiction of municipal and justice courts

Comment. Section 1462.1 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1462.2 (amended). Place of misdemeanor trial

Comment. Section 1462.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1463 (amended). Distributions

Comment. Section 1463 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1463.1 (amended). Moneys deposited as bail

Comment. Section 1463.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1463.22 (amended). Moneys deposited with county

Comment. Section 1463.22 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Heading of Chapter 2 (commencing with Section 1466) (amended)

Comment. The heading of Chapter 2 (commencing with Section 1466) of Title 11 of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1466 (amended). Appeals

Comment. Section 1466 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. Appeals in misdemeanor and infraction cases lie to the appellate division of the superior court. Appeals in felony cases lie to the court of appeal, regardless of whether the appeal is from the superior court, the municipal court, or the action of a magistrate. See Section 1235 & Comment. *Cf.* Cal. Const. art. VI, § 11(a) (court of appeal appellate jurisdiction when superior courts have original jurisdiction and in other causes provided by statute).

Criminal cases of which the juvenile court is given jurisdiction are governed by the Juvenile Court Law, Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code. See Welf. & Inst. Code §§ 203 (juvenile court proceedings non-criminal), 245 (superior court jurisdiction), 602 (criminal law violation by minor subject to juvenile court jurisdiction), 603 (juvenile crimes not governed by general criminal law).

Penal Code § 1468 (amended). Appeals to appellate division

Comment. Section 1468 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment. In a county in which there is no municipal court, the appeal will be remitted to the superior court.

Heading of Chapter 3 (commencing with Section 1471) (amended)

Comment. The heading of Chapter 3 (commencing with Section 1471) of Title 11 of Part 2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 1471 (amended). Transfer to court of appeal

Comment. Section 1471 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 1538.5 (amended). Motion to return property or suppress evidence

Comment. Section 1538.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

These amendments of Section 1538.5 are not intended to modify Article I, Section 28(d) of the Constitution. *Cf.* *People v. Daan*, 161 Cal. App. 3d 22, 207 Cal. Rptr. 228 (1984).

It should be noted that procedures under this section that provide for superior court review of, or action based on, a ruling or order by a superior court judge or a magistrate must be performed by a superior court judge other than the judge or magistrate who originally made the ruling or order, unless agreed to by the parties. Section 859c.

Penal Code § 2620 (amended). Proceedings involving prisoner

Comment. Section 2620 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Penal Code § 2621 (amended). Prisoner as material witness

Comment. Section 2621 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 691 (defining “felony case” and “misdemeanor case”).

Penal Code § 2623 (amended). Deposition of prisoner

Comment. Section 2623 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 3076 (amended). County board of parole commissioners

Comment. Section 3076 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 4004 (amended). Confinement and custody

Comment. Section 4004 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Section 691 & Comment.

Penal Code § 4022 (amended). City jail

Comment. Section 4022 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). As used in this section, “judicial district” means, in a county in which there is no municipal court, the county. Code Civ. Proc. § 38. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The section applies only to misdemeanors; conviction of an infraction cannot lead to confinement.

Penal Code § 4024.1 (amended). Release of inmates

Comment. Section 4024.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 4112 (amended). Industrial road camp

Comment. Section 4112 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 13125 (amended). Criminal offender record information systems

Comment. Section 13125 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county with a unified trial court, preliminary hearing data (instead of municipal court data) will be collected.

Penal Code § 13151 (amended). Disposition report of cases

Comment. Section 13151 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Penal Code § 14154 (amended). Referral to community conflict resolution program

Comment. Section 14154 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

PR O B A T E C O D E

Prob. Code § 5500 (added). Short title; purposes; construction

Comment. Section 5500 is the same in substance as Section 11 of the Uniform TOD Security Registration Act (1989). As to construing provisions drawn from uniform acts, see Section 2(b). Paragraphs (1) and (2) of subdivision (c) are not in the uniform act, but are included as a useful statement of the underlying purposes and policy of this part. For a severability provision, see Section 11.

Prob. Code § 5501 (added). Definitions

Comment. Section 5501 is the same as paragraphs (1), (7), (8), (9), and (10) of Section 1 of the Uniform TOD Security Registration Act (1989). Definitions in Section 1 of the Uniform TOD Security Registration Act that are not included here are in other provisions of this code. See Sections 34 (“devisee”), 44 (“heir”), 56 (“person”), 58 (“personal representative”), 62 (“property”), 74 (“state”).

The definition of “security” includes shares of mutual funds and other investment companies. *Cf.* Com. Code § 8102 (definitions). The defined term “security account” is not intended to include securities held in the name of a bank or similar institution as nominee for the benefit of a trust.

“Survive” is not defined. No effort is made in this part to define survival as it is for purposes of intestate succession in Section 6403, which requires survival by an heir of the ancestor for 120 hours. For purposes of this part, “survive” is used in its common law sense of outliving another for any time interval, no matter how brief. The drafters of the uniform act sought to avoid imposition of a new and unfamiliar meaning of the term on intermediaries familiar with the meaning of “survive” in joint tenancy registrations.

Prob. Code § 5502 (added). Ownership requirement to obtain registration in beneficiary form

Comment. Section 5502 is the same as Section 2 of the Uniform TOD Security Registration Act (1989). Section 5502 is designed to prevent co-owners from designating any death beneficiary other than one who is to take only upon survival of *all* co-owners. It coerces co-owning registrants to signal whether they hold as joint tenants with right of survivorship (JT

TEN), as tenants by the entirety (T ENT), or as owners of community property. Also, it imposes survivorship on co-owners holding in a beneficiary form that fails to specify a survivorship form of holding. Nothing in Section 5502 authorizes a California married couple to register a security as “tenants by the entirety,” since California does not recognize that form of ownership. See Civ. Code § 682. However, a California corporation may register a security to be held as tenants by the entirety if the shareholders are residents of another state which recognizes that form of ownership. Similarly, California does not permit property to be held as community property with a right of survivorship. However, this title form is recognized in Nevada and Arizona.. See Nevada Rev. Stat. Ann. ch. 111.064 (Michie 1993); Ariz. Rev. Stat. Ann. § 33-431 (Supp. 1997).

Tenancy in common and community property otherwise than in a survivorship setting are negated for registration in beneficiary form because persons desiring to signal independent death beneficiaries for each individual’s fractional interest in a co-owned security normally will split their holdings into separate registrations of the number of units previously constituting their fractional share. Once divided, each can name his or her own choice of death beneficiary.

The term “individual,” as used in this section, limits those who may register as owner or co-owner of a security in beneficiary form to natural persons. However, the section does not restrict an individual using this ownership form as to the choice of death beneficiary. The definition of “beneficiary form” in Section 5501 indicates that any “person” may be designated beneficiary in a registration in beneficiary form. “Person” is defined in Section 56 so that a church, trust company, family corporation, or other entity, as well as an individual, may be designated as a beneficiary.

Prob. Code § 5503 (added). Law authorizing registration in beneficiary form

Comment. Section 5503 is the same as Section 3 of the Uniform TOD Security Registration Act (1989). The section encourages registrations in beneficiary form to be made whenever a state with which either of the parties to a registration has contact has enacted this or a similar statute. Thus, a registration in beneficiary form of X Company shares might rely on the enactment of the uniform act in X Company’s state of incorporation, or in the state of incorporation of X Company’s transfer agent. Or, an enactment by the state of the issuer’s principal office, of the transfer agent’s principal office, or of the issuer’s office making the registration also would validate the registration. An enactment of the state of the registered owner’s address at the time of registration also might be used for validation purposes. The last sentence of Section 5503 is designed to establish a statutory presumption that a general principle of law is available to achieve a result like that made possible by this part.

Prob. Code § 5504 (added). Origination of registration in beneficiary form

Comment. Section 5504 is the same as Section 4 of the Uniform TOD Security Registration Act (1989). As noted in the Comment to Section 5502, this part places no restriction on who may be designated beneficiary in a registration in beneficiary form. Any legal entity may be designated beneficiary in a registration in beneficiary form.

Prob. Code § 5505 (added). Form of registration in beneficiary form

Comment. Section 5505 is the same as Section 5 of the Uniform TOD Security Registration Act (1989). The abbreviation “POD” is included for use without regard to whether the subject is a money claim against an issuer, such as its own note or bond for money loaned, or is a claim to securities evidenced by conventional title documentation. The use of “POD” in a registration in beneficiary form of shares in an investment company should not be taken as a signal that the investment is to be sold or redeemed on the owner’s death so that the sums realized may be “paid” to the death beneficiary. Rather, only a transfer on death, not a liquidation on death, is indicated. The drafters of the uniform act would have used only the abbreviation “TOD” except for the familiarity, rooted in experience with certificates of deposit and other deposit accounts in banks, with the abbreviation “POD” as signaling a valid nonprobate death benefit or transfer on death.

Prob. Code § 5506 (added). Effect of registration in beneficiary form

Comment. Section 5506 is the same as Section 6 of the Uniform TOD Security Registration Act (1989). The section simply affirms the right of a sole owner, or the right of all multiple owners, to end a TOD beneficiary registration without the assent of the beneficiary. The section says nothing about how a TOD beneficiary designation may be canceled, meaning that the registering entity's terms and conditions, if any, may be relevant. See Section 5510. If the terms and conditions have nothing on the point, cancellation of a beneficiary designation presumably would be effected by a reregistration showing a different beneficiary or omitting reference to a TOD beneficiary.

Prob. Code § 5507 (added). Ownership on death of owner

Comment. Section 5507 is the same as Section 7 of the Uniform TOD Security Registration Act (1989). Even though multiple owners of a security registered in beneficiary form hold with right of survivorship, no survivorship rights attend the positions of multiple beneficiaries who become entitled to securities by reason of having survived the sole owner or the last to die of multiple owners. Issuers (and registering entities) who decide to accept registrations in beneficiary form involving more than one primary beneficiary should provide by rule whether fractional shares will be registered in the names of surviving beneficiaries where the number of shares held by the deceased owner does not divide without remnant among the survivors. If fractional shares are not desired, the issuer may wish to provide for sale of odd shares and division of proceeds, for an uneven distribution with the first or last named to receive the odd share, or for other resolution. Section 5508 deals with whether intermediaries have any obligation to offer beneficiary designations of any sort. Section 5510 enables issuers to adopt terms and conditions controlling the details of applications for registrations they decide to accept and procedures for implementing such registrations after an owner's death.

The statement that a security registered in beneficiary form is in the deceased owner's estate when no beneficiary survives the owner is not intended to prevent application of any antilapse statute that might direct a nonprobate transfer on death to the surviving issue of a beneficiary who failed to survive the owner. See, e.g., Section 21110 (antilapse). Rather, the statement is intended only to indicate that the registering entity involved should transfer or reregister the security as directed by the decedent's personal representative.

See also the Comment to Section 5501 on the meaning of "survive" for purposes of this part.

Prob. Code § 5508 (added). Protection of registering entity

Comment. Section 5508 is the same as Section 8 of the Uniform TOD Security Registration Act (1989), except for substitution of "part" for "act," substitution of "Section 5507" for "Section 7," and omission in subdivision (b) of language providing that the registering entity agrees that the registration will be implemented "on death of the deceased owner" as provided in this part. The omission from subdivision (b) is nonsubstantive, since subdivision (b) provides that the registering entity agrees to implement the registration as provided in this part, whether before or after the death of the deceased owner.

A "request" for registration in beneficiary form may be in any form chosen by a registering entity. This part does not prescribe a particular form and does not impose record-keeping requirements. Registering entities' business practices, including any industry standards or rules of transfer agent associations, will control.

The written notice referred to in subdivision (c) would qualify as a notice under Section 8403 of the Uniform Commercial Code.

"Good faith" as used in subdivision (c) is intended to mean "honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade," as specified in Section 2103(1)(b) of the Uniform Commercial Code.

The protections described in this section are designed to meet any questions regarding registering entity protection that may not be foreclosed by issuer protections provided in the Uniform Commercial Code. For a discussion of the relevant Uniform Commercial Code

provisions, see Wellman, *Transfer-on-Death Securities Registration: A New Title Form*, 21 Ga. L. Rev. 789, 823 n.90 (1987).

Prob. Code § 5509 (added). Nontestamentary transfer on death; rights of creditors

Comment. Section 5509 is the same as Section 9 of the Uniform TOD Security Registration Act (1989), except for substitution of “part” for “act,” and the addition of the language in subdivision (b) that this part does not limit the rights of a surviving spouse against beneficiaries and other transferees under other laws of this state. This language is consistent with Section 5511 (nothing in this part alters rights in community property).

Prob. Code § 5510 (added). Terms, conditions, and forms for registration

Comment. Section 5510 is the same as Section 10 of the Uniform TOD Security Registration Act (1989). Use of “and” or “or” between the names of persons registered as co-owners is unnecessary under this part and should be discouraged. If used, the two words should have the same meaning insofar as concerns a title form, i.e., that of “and” to indicate that both named persons own the asset.

Descendants of a named beneficiary who take by virtue of an “LDPS” designation appended to a beneficiary’s name take as TOD beneficiaries rather than as intestate successors. For distributions to lineal descendants per stirpes, see Section 246. If no descendant of a predeceased primary beneficiary survives the owner, the security passes as part of the owner’s estate as provided in Section 5507.

Prob. Code § 5511 (added). Community property rights of nonconsenting spouse

Comment. Section 5511 makes clear that rights granted by this part are subject to Sections 5010-5032 (community property rights of nonconsenting spouse in nonprobate transfers).

Property rights under this part may be subject to other statutory qualifications than those noted in Section 5511. See, e.g., Sections 220-226 (simultaneous death), 250-258 (effect of homicide), 260-288 (disclaimer). Property received under this part may be subject to apportionment of estate taxes. See Sections 20100-20225. If a TOD beneficiary fails to survive the owner, the beneficiary’s interest may be subject to the antilapse statute. See Section 21110.

Prob. Code § 5512 (added). Application of part

Comment. Section 5512 is the same as Section 12 of the Uniform TOD Security Registration Act (1989), except that it applies this “part” to registrations made before, “on,” or after the operative date.

PUBLIC RESOURCES CODE

Pub. Res. Code § 3357 (amended). Investigative powers

Comment. Section 3357 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Res. Code § 3769 (amended). Investigative powers

Comment. Section 3769 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Res. Code § 5560 (amended). Penalties and jurisdiction

Comment. Section 5560 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). “District,” as used in this section, means “any regional

park district, regional park and open-space district, or regional open-space district formed pursuant to this article.” Section 5500. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

PUBLIC UTILITIES CODE

Pub. Util. Code § 1794 (amended). Depositions

Comment. Section 1794 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Util. Code § 5411.5 (amended). Seizure or impoundment of vehicle

Comment. Section 5411.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Pub. Util. Code § 103100 (amended). Membership of board

Comment. Section 103100 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The revision of subdivision (b) reflects the existing consolidation of municipal court districts in San Mateo County. As used in the introductory clause of this section, “district” means the San Mateo County Transit District. See Section 103011.

REVENUE AND TAXATION CODE

Rev. & Tax. Code § 6776 (amended). Issuance of warrant

Comment. Section 6776 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 6777 (amended). Fees

Comment. Section 6777 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 19232 (amended). Force and effect of warrant

Comment. Section 19232 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 19233 (amended). Fees

Comment. Section 19233 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Rev. & Tax. Code § 19280 (amended). Referral of fines and penalties to Franchise Tax Board

Comment. Section 19280 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

UNEMPLOYMENT INSURANCE CODE

Unemp. Ins. Code § 1785 (amended). Issuance of warrant

Comment. Section 1785 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Unemp. Ins. Code § 1786 (amended). Fees

Comment. Section 1786 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

VEHICLE CODE

Veh. Code § 2802.5 (amended). Commercial vehicle inspection facilities

Comment. Section 2802.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Veh. Code § 9872.1 (amended). Vessel with hull identification number removed

Comment. Section 9872.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 10751 (amended). Removal of identifying number

Comment. Section 10751 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 11205 (amended). Traffic violator school list (as amended by Section 48 of Chapter 571 of the Statutes of 1997)

Comment. Section 11205 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The hearings available under subdivisions (e) and (j) are not classified as limited civil cases; it is not appropriate to subject these hearings to the full panoply of procedures that apply to limited civil cases. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 11205 (amended). Traffic violator school list (as amended by Section 48.5 of Chapter 571 of the Statutes of 1997)

Comment. Section 11205 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 14607.6 (amended). Vehicle driven by unlicensed driver

Comment. Section 14607.6 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 27360 (amended). Child passenger restraint systems

Comment. Subdivision (d)(1) of Section 27360 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Veh. Code § 40230 (amended). Appeal to municipal court

Comment. Section 40230 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 40256 (amended). Appeals

Comment. Section 40256 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited civil case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited civil cases). See also Code Civ. Proc. §§ 91, 904.2, 1085 (trial procedures and writ and appellate jurisdiction for limited civil cases).

Veh. Code § 40502 (amended). Place to appear

Comment. Section 40502 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). *Cf.* Penal Code § 808 (magistrates). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 40506.5 (amended). Request for continuance

Comment. Section 40506.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 40508.6 (amended). Administrative assessments for costs

Comment. Section 40508.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 42008 (amended). County amnesty program for delinquent fines and bail

Comment. Section 42008 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

The phrase “of the Penal Code” was inadvertently omitted from subdivision (d) when originally enacted.

Veh. Code § 42203 (amended). Violations on certain county owned premises

Comment. Section 42203 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

WATER CODE

Water Code § 310 (amended). Jurisdiction

Comment. Section 310 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Water Code § 1100 (amended). Manner of taking deposition

Comment. Section 1100 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

WELFARE AND INSTITUTIONS CODE

Welf. & Inst. Code § 245 (amended). Jurisdiction.

Comment. Section 245 makes clear that the court of appeal is the proper appellate court to review appealable orders and judgments of the juvenile court. See Welf. & Inst. Code §§ 395, 800 (appealable orders and judgments of the juvenile court). The Judicial Council already has enacted rules of practice and procedure governing juvenile court appeals. See Rules of Court, Rules 39, 39.1, 39.1A, 39.1B, 1435, 1436, 1436.5.

Welf. & Inst. Code § 255 (amended). Traffic hearing officers

Comment. Section 255 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Welf. & Inst. Code § 601.4 (amended). Compulsory education violations

Comment. Section 601.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The jurisdictional and procedural distinctions between a judge sitting as a juvenile court judge and sitting as a superior court judge are significant and are preserved in this amendment. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Welf. & Inst. Code § 603.5 (amended). Vehicle Code infractions or violation of local ordinances involving motor vehicles by minor

Comment. Section 603.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Welf. & Inst. Code § 656 (amended). Petition to declare minor ward of court

Comment. Section 656(i) is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment. The jurisdictional and procedural distinctions between a judge sitting as a juvenile court judge and sitting as a superior court judge are significant and are preserved in this amendment.

Welf. & Inst. Code § 661 (amended). Notice and citation

Comment. Section 661 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment. The jurisdictional and procedural distinctions between a judge sitting as a juvenile court judge and sitting as a superior court judge are significant and are preserved in this amendment.

Welf. & Inst. Code § 742.16 (amended). Restitution

Comment. Section 742.16 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

When the juvenile court judge sits to determine the liability of parents or guardians the judge has the jurisdiction of a municipal court judge. See subdivision (l). The amount in controversy cannot exceed \$25,000. See subdivision (d), referring to Civ. Code § 1714.1. Cf. Code Civ. Proc. § 85 (limited civil cases).

Welf. & Inst. Code § 3050 (amended). Possible narcotic addiction of person convicted of misdemeanor or infraction

Comment. Section 3050 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Welf. & Inst. Code § 3051 (amended). Possible narcotic addiction of person convicted of felony

Comment. Section 3051 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Welf. & Inst. Code § 3200 (amended). Recommendation of discharge

Comment. Section 3200 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Welf. & Inst. Code § 11350.7 (amended). Delinquent support payments

Comment. Section 11350.7 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

UNC ODIFIE D

Section 22 of the Protection District Act of 1895 (amended). Claim for damages

Comment. Section 22 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Section 4 of the Drainage District Act of 1903 (amended). Appeals

Comment. Section 4 is amended to reflect elimination of the justices' court. Cal. Const. art. VI, §§ 1, 5.

CONSTITUTION

Cal. Const. Art. I, § 16 (amended). Trial by jury

Comment. For background relating to the amendment to Section 16 of Article I of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see

Trial Court Unification: Constitutional Revision (SCA 3), 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, §1 (amended). Judicial power

Comment. For background relating to the amendment to Section 1 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 4 (amended). Superior court

Comment. For background relating to the amendment to Section 4 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 5 (repealed). Municipal and justice court

Comment. For background relating to the amendment to Section 5 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 6 (amended). Judicial Council

Comment. For background relating to the amendment to Section 6 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 8 (amended). Commission on Judicial Performance

Comment. For background relating to the amendment to Section 8 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 10 (amended). Original jurisdiction

Comment. For background relating to the amendment to Section 10 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 11 (amended). Appellate jurisdiction

Comment. For background relating to the amendment to Section 11 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 16 (amended). Election of judges

Comment. For background relating to the amendment to Section 16 of Article VI of the California Constitution made by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).

Cal. Const. Art. VI, § 23 (added). Transitional provision

Comment. For background relating to Section 23 of Article VI of the California Constitution added by Proposition 220 (approved by the electors June 2, 1998), see *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994).
