

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court (Part 1)

December 2010

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
www.clrc.ca.gov

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

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CALIFORNIA LAW REVISION COMMISSION

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December 15, 2010

To: The Honorable Arnold Schwarzenegger
Governor of California, and
The Legislature of California

In the past decade, California's trial court system has been dramatically restructured, necessitating revision of hundreds of code provisions.

By statute, the Law Revision Commission is responsible for recommending revisions to the codes to reflect trial court restructuring. The Commission has done extensive work in response to this directive, and several major recommendations have been enacted.

This recommendation proposes additional statutory revisions to reflect trial court restructuring. The Commission identified most of the provisions in this recommendation by systematically searching the codes for provisions that still need revision to reflect the shift from county to state funding of trial court operations. This recommendation proposes revisions relating to the following topics:

- Funding of court operations.
- Management of courts and employment of court personnel.

- References to a judicial district.
- Fines, forfeitures, and deposits relating to a violation of the Alcoholic Beverage Control Act (Bus. & Prof. Code § 25762).

This recommendation was prepared pursuant to Government Code Sections 70219 and 71674, and Resolution Chapter 98 of the Statutes of 2009.

Respectfully submitted,

Associate Justice
John Zebrowski (Ret.)
Chairperson

TRIAL COURT RESTRUCTURING: RIGHTS AND RESPONSIBILITIES OF THE COUNTY AS COMPARED TO THE SUPERIOR COURT (PART 1)

The trial court system in California was significantly restructured, beginning in the late 1990s and continuing into the next decade. The major trial court restructuring reforms include:

- State, as opposed to county, funding of trial court operations under the Lockyer-Isenberg Trial Court Funding Act of 1997 (hereafter, the “Trial Court Funding Act”).¹
- Trial court unification on a county-by-county basis, eventually occurring in all counties. Trial court operations have been consolidated in the superior court of each county and municipal courts no longer exist.²

1. See 1997 Cal. Stat. ch. 850; see generally Gov’t Code §§ 77000-77655. An earlier trial court funding act made the state partially responsible for funding trial court operations. 1988 Cal. Stat. ch. 945. That act was known as the Brown-Presley Trial Court Funding Act. Its name is still used in Government Code Section 77000.

Although Government Code Section 77200 now makes the state solely responsible for funding trial court operations, each county is required to pay an annual remittance to the state, based on the county’s past expenditures for trial court operations. See Gov’t Code § 77201.3 (setting forth remittance amount owed by each county, for 2006-07 fiscal year, and each year thereafter).

2. In 1998, California voters approved a measure that amended the California Constitution to permit the municipal and superior courts in each county to unify on a vote of a majority of the municipal court judges and a majority of the superior court judges in the county. Former Cal. Const. art. VI, § 5(e), approved by the voters June 2, 1998 (Proposition 220). Upon unification of the courts in Kings County, on February 8, 2001, the courts in all 58 counties had unified.

- Enactment of the Trial Court Employment Protection and Governance Act (hereafter, the “TCEPGA”), which established a new personnel system for trial court employees.³ Under the TCEPGA, trial court employees are employed by the court, rather than the county.⁴

As a result of these reforms, hundreds of sections of the California codes needed to be revised. The Legislature directed the Law Revision Commission to recommend revisions that would reflect these reforms.⁵

The Commission has completed a vast amount of work on trial court restructuring, and the Legislature has enacted several measures to implement the Commission’s recommendations.⁶ In this work, the Commission has sought

3. 2000 Cal. Stat. ch. 1010; see Gov’t Code §§ 71600 (providing that Sections 71600-71675 are Trial Court Employment Protection and Governance Act). A special act relating to interpreters, the Trial Court Interpreter Employment and Labor Relations Act, was also enacted. See 2002 Cal. Stat. ch. 1047; Gov’t Code §§ 71800-71829.

4. See Gov’t Code §§ 71615(c)(5) (trial court as employer of all trial court employees); see also Gov’t Code §§ 71601(l) (“trial court employee” defined); 71645(a) (“On and after the implementation date of this chapter, this article shall become the employment, selection, and advancement system for all trial court employees within a trial court and shall become part of the sole trial court employee system, replacing any aspects of county employment, selection, and advancement systems applying to trial court employees prior to the implementation date of this chapter.”).

5. Gov’t Code § 71674 (directing Commission to determine whether any provisions are obsolete as a result of trial court restructuring reforms and to report its recommendations and proposed statutory changes to the Legislature). The Commission is also authorized to make recommendations “pertaining to statutory changes that may be necessitated by court unification.” 2009 Cal. Stat. res. ch. 98; see also Gov’t Code § 70219.

6. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51, 60 (1998), implemented by 1998 Cal. Stat. ch. 931 (revising the codes to accommodate trial court unification) (hereafter, *Revision*

to update the statutes without making any substantive changes other than those necessary to reflect the trial court restructuring reforms.⁷ This recommendation is intended to continue that approach.

The Commission has recently focused on identifying provisions that still need to be revised to reflect the enactment of the Trial Court Funding Act (i.e., to reflect the shift from county funding to state funding of trial court operations). The Commission is searching the codes systematically for key terms, including “county” and “board of supervisors.”

This recommendation proposes revisions to numerous statutes identified through these systematic searches, as well as a few statutes previously identified as requiring attention. The proposed revisions would not only address material made obsolete by the enactment of the Trial Court Funding Act, but also some material made obsolete by trial court unification or the enactment of the TCEPGA.

of Codes); 1999 Cal. Stat. ch. 344; *Report of the California Law Revision Commission on Chapter 344 of the Statutes of 1999 (Senate Bill 210)*, 29 Cal. L. Revision Comm’n Reports 657 (1999); *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L. Revision Comm’n Reports 1 (2002), implemented by 2002 Cal. Stat. ch. 784 & ACA 15, approved by the voters Nov. 5, 2002 (Proposition 48); *Statutes Made Obsolete by Trial Court Restructuring: Part 2*, 33 Cal. L. Revision Comm’n Reports 169 (2003), implemented by 2003 Cal. Stat. ch. 149; *Statutes Made Obsolete by Trial Court Restructuring: Part 3*, 36 Cal. L. Revision Comm’n Reports 305 (2006), implemented by 2007 Cal. Stat. ch. 43; *Statutes Made Obsolete by Trial Court Restructuring: Part 4*, 37 Cal. L. Revision Comm’n Reports 171 (2007), implemented by 2008 Cal. Stat. ch. 56; *Trial Court Restructuring: Transfer of Case Based on Lack of Jurisdiction*, 37 Cal. L. Revision Comm’n Reports 195 (2007), implemented by 2008 Cal. Stat. ch. 56; *Statutes Made Obsolete by Trial Court Restructuring: Part 5*, 39 Cal. L. Revision Comm’n Reports 109 (2009), implemented by 2010 Cal. Stat. ch. 212, §§ 2, 3, 6, 7, 8, 10, 11, 12.

7. See, e.g., *Revision of Codes*, *supra* note 6; *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm’n Reports 1, 18-19, 28 (1994).

This recommendation proposes revisions relating to the following topics:

- Funding of court operations.
- Management of courts and employment of court personnel.
- References to a judicial district.
- Fines, forfeitures, and deposits relating to a violation of the Alcoholic Beverage Control Act (Bus. & Prof. Code § 25762).⁸

The Commission is continuing its systematic searches of the codes.⁹ The Commission expects to propose additional revisions in a separate proposal at a later date.

FUNDING OF COURT OPERATIONS

Under the Trial Court Funding Act, the state, instead of the county, became responsible for funding “court operations,” as defined in Government Code Section 77003 and Rule 10.810 of the California Rules of Court.¹⁰ A number of provisions still need revision to reflect that court operations are paid by the state, rather than the county.

For example, Family Code Section 7556 applies to a determination of paternity in a criminal case. The section currently provides that compensation of a paternity expert

8. Most of the provisions identified in the search so far are included in this recommendation. Some of the provisions are not included because they require further study. For example, some provisions relate to a topic on which the Commission anticipates further work (such as court facilities, compensation of court reporters, or judicial benefits), and may be included in a future recommendation.

9. The Commission is partway through the Government Code.

10. See Gov’t Code § 77200.

“shall be paid by the *county* under order of court.”¹¹ However, compensation of an expert witness who is appointed by the court for the court’s needs is classified as a “court operation” within the meaning of the Trial Court Funding Act.¹² Consequently, the state, not the county, is responsible for payment when an expert witness is appointed by the court for the court’s needs.¹³

Family Code Section 7556 should be revised accordingly. The general rule that the county pays for a paternity expert should be modified; there should be an exception stating that the court is responsible for paying an expert witness who is appointed by the court for the court’s needs.¹⁴

Similarly, Family Code Section 1838 governs family conciliation court proceedings, which are designed “to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues in controversy.”¹⁵ Subdivision (b) provides that a court, upon the parties’ consent, may invoke the aid of a medical or other specialist, scientific expert, or director of a religious denomination to which the parties belong. Subdivision (b) further provides that the aid may be paid by the county or court if the board of supervisors “specifically provides and authorizes the aid.”

Because counties no longer fund court operations, it is no longer appropriate for a county to provide or authorize

11. Emphasis added.

12. See Gov’t Code § 77003 (“court operations” defined); Cal. R. Ct. 10.810(d), Function 10 (“court operations” include “court-appointed expert witness fees (for the court’s needs)”).

13. See Gov’t Code § 77200 (state funding of “court operations”).

14. See proposed amendment to Fam. Code § 7556 & Comment *infra*.

15. See Fam. Code § 1838(a).

payment by a court.¹⁶ Furthermore, it appears that the aid invoked by a court under subdivision (b) is a “court operation” under the Trial Court Funding Act.¹⁷ The Commission thus proposes revisions in accordance with the view that the aid is a court operation.¹⁸

The Commission likewise recommends revising several other provisions to reflect that “court operations” are now paid by the state, instead of the county, under the Trial Court Funding Act.¹⁹

16. As to the authorization in subdivision (b) for the *county* to pay for the aid with *county* funds, the Commission recommends retaining that authorization. That would continue the legislative policy decision embodied in the provision for there to be a mechanism to pay for the aid with public funds. Whether a *court* may pay for the aid with *court* funds, however, depends on whether the aid is a court operation.

17. Because the court may invoke the aid as part of the court’s conciliation function, it appears such aid should be treated as a court operation. Although the definition of “court operations” does not expressly list such aid as a court operation, it does list items relating to dispute resolution programs, including conciliators, as court operations. See Cal. R. Ct. 10.810(d), Function 6 (listing court operations relating to dispute resolution programs, including conciliators, but stating that “[a]ny other *services*, supplies, and equipment” are under Function 10) (emphasis added). The definition also lists “court-ordered forensic evaluations and *other professional services* (for the court’s own use)” as a court operation. See Cal. R. Ct. 10.810(d), Function 10 (emphasis added).

18. See proposed amendment to Fam. Code § 1838 & Comment *infra*.

19. See proposed amendments to Code Civ. Proc. §§ 116.940, 631.2; Evid. Code § 754; Fam. Code §§ 1834, 7553; Gov’t Code §§ 29603, 68098 & Comments *infra*; see also proposed amendment to Educ. Code § 56159 (reflecting that payment of individual’s residential and non-educational expenses is not court operation) & Comment *infra*.

The Commission also recommends a technical revision related to Code of Civil Procedure Section 631.2. Subdivision (a) of that provision is identical to Code of Civil Procedure Section 631.1. Accordingly, the Commission recommends deleting Section 631.1 as surplusage. See proposed repeal of Code Civ. Proc. § 631.1 & Comment *infra*.

MANAGEMENT OF COURTS AND EMPLOYMENT OF COURT PERSONNEL

Trial court restructuring reforms transferred responsibility for managing the courts and employing court personnel from the county to the court itself.

The Trial Court Funding Act relieved the county of responsibility for managing the courts. Under that act, courts manage themselves under a decentralized system.²⁰

The TCEPGA relieved the county of responsibility for employing court personnel. Pursuant to that act, the court itself employs and manages trial court employees.²¹

These reforms, along with the shift in funding court operations from the county to the state, have several implications. For example, duties to manage the courts should no longer be attributed to the county, and the county should no longer be treated as the employer of court personnel.

The Commission has identified several provisions that still need to be revised to reflect these implications. An example is Family Code Section 1820, which relates to family conciliation court services:

- Subdivision (a) authorizes a *county* to contract with another *county* to provide joint family conciliation court services. Now that the county no longer funds or manages the courts, subdivision (a) should

20. See Gov't Code § 77001 (providing for local trial court management).

21. See Gov't Code § 71615(c)(5) (trial court as employer of all trial court employees); see also Gov't Code §§ 71601(*l*) (“trial court employee” defined), 71641 (duty of each court to develop personnel rules on hiring, promotion, transfer, and classification).

authorize *courts* themselves to contract with each other for such services.²²

- Subdivision (b) says that the contract for such services may provide that the treasurer of one participating *county* is the custodian over money made available for the services. Subdivision (b) also authorizes payment from that money upon audit by the appropriate *county* officer. Because money for the services would now come from courts' budgets managed by the courts themselves, subdivision (b) should provide that one participating *court* may serve as custodian of the money. Similarly, subdivision (b) should authorize payment from that money upon audit by a *court* officer.
- Subdivision (c)(3) provides that family conciliation court staff, excluding judges and other court personnel, may be considered employees of one participating *county*, for specified purposes. Because court employees are no longer county employees, subdivision (c)(3) should refer to employees of one participating *court*, rather than a participating county.

The Commission recommends revisions to Section 1820 that would effectuate those changes.²³

The Commission also recommends revisions to several other provisions, to similarly reflect the transfer of responsibility for managing the courts and employing court personnel.²⁴

22. Family Code Section 1820(d) should be revised for a similar reason. That provision refers to a *county's* contract to provide joint conciliation court services. It should instead refer to a *court's* contract.

23. See proposed amendment to Fam. Code § 1820 *infra*.

24. See, e.g., proposed amendments to Fam. Code §§ 1814, 1850, 3025.5, 3170, 3173, 3188, 6303 & Comments *infra*. The proposed amendment to Family Code Section 3188 would also correct a technical error.

REFERENCES TO A JUDICIAL DISTRICT

Several provisions that refer to a “judicial district” need revision to reflect trial court restructuring reforms. Before those reforms, a statutory reference to a judicial district usually was intended to refer to a judicial district of a municipal court.²⁵

To accommodate unification of the municipal and superior courts on a county-by-county basis, Code of Civil Procedure Section 38 was enacted.²⁶ Among other things, the section governs the meaning of a reference to a judicial district in a county in which unification has occurred (i.e., a county in which there is no longer a municipal court). In such a county, a reference to a judicial district that relates to a municipal court means the county, unless the provision or its context otherwise requires.²⁷

Because unification has occurred in all counties,²⁸ and because most pre-unification references to a judicial district related to a municipal court,²⁹ a reference to a judicial district now generally means the county.³⁰

25. See *Revision of Codes*, *supra* note 6, at 70.

26. See 1998 Cal. Stat. ch. 931, § 20; see also *Revision of Codes*, *supra* note 6, at 132.

27. See Code Civ. Proc. § 38(d). In a county in which unification had not yet occurred, a reference to a judicial district that related to a municipal court meant the municipal court, unless the provision or its context otherwise required. See Code Civ. Proc. § 38(c).

28. See *supra* note 2.

29. See *Revision of Codes*, *supra* note 6, at 70.

30. See Code Civ. Proc. § 38(d). Note, however, that for limited purposes, such as publication of notice, former municipal court districts have ongoing relevance. See, e.g., Gov't Code § 71042.5 (preservation of municipal court district for purpose of publication within judicial district).

The provisions in this recommendation that refer to a judicial district fall into two categories: (1) provisions that refer to a judicial district alone, and (2) provisions that refer to both a judicial district and a county in the same phrase. Each category is discussed in turn below.

Reference to a Judicial District Alone

Three provisions in this recommendation refer to a judicial district alone. These provisions pertain to matters to be determined by a County Boundary Review Commission, including boundaries of municipal court districts within a county when the county's boundaries change.³¹

Because there are no more municipal courts, the references to a judicial district are no longer necessary. Moreover, if the references were treated as references to the county (under Code of Civil Procedure Section 38), the provisions pertaining to the County Boundary Review Commission would direct it to determine boundaries of counties within a county, which is nonsensical. Accordingly, the provisions should be revised to remove the references to a judicial district.³²

Reference to a Judicial District Alongside a Reference to a County

Several provisions refer to both a judicial district and a county in the same phrase, for example, "a county or judicial district," or "an officer of a county or judicial district."

As explained above, a reference to a judicial district is generally to be treated as a reference to the county.³³ Accordingly, a provision that refers to a "county or judicial

31. See Gov't Code §§ 23249, 23332, and 23535.

32. See proposed amendments to Gov't Code §§ 23249, 23332, 23535 & Comments *infra*.

33. See Code Civ. Proc. § 38(d); *Revision of Codes, supra* note 6, at 70.

district” effectively refers twice to the county. The reference to a judicial district is thus redundant. The Commission recommends deleting the redundant references to a judicial district.³⁴

Before trial court restructuring, a reference to the county encompassed the superior court. Due to trial court restructuring, many of the provisions that refer to a county no longer contain material that is applicable to a superior court. Other provisions, however, continue to contain material that is applicable to a superior court. Each type of these provisions is discussed in turn below.

Provisions with Material that is No Longer Applicable to a Superior Court

Many provisions that refer to “a county or judicial district” or use a similar phrase contain material that is no longer applicable to a superior court. For most of these provisions,

34. See proposed amendments to Gov’t Code §§ 1750, 24350, 24351, 24353, 25252.6, 27080.1, 29320, 29370, 29370.1, 29371, 29372, 29373, 29374, 29375, 29376, 29377, 29379, 31116 *infra*.

Although Government Code Section 29370 and some nearby sections should be revised to remove redundant “judicial district” references, further statutory revisions may also be appropriate. Section 29370 authorizes a county to establish a cash difference fund for use by a county officer, which formerly included a court officer. Due to trial court restructuring, the provision no longer extends to a court officer.

Thus, it may now be advisable to enact a statute giving courts authority to establish a cash difference fund for use by a court officer. However, it is debatable whether governance of such a fund should be determined by statute (similar to Gov’t Code §§ 13940-13943.1 or Gov’t Code §§ 29370.1-29390.1) or handled by the court without statutory guidance (see, e.g., the Trial Court Financial Policies and Procedures Manual prepared by the Administrative Office of the Courts). This policy decision appears to be beyond the Commission’s authority and better-suited to resolution by the Legislature without guidance from the Commission.

no revision is needed, beyond deleting the reference to a judicial district.³⁵

An exception is Government Code Section 29320, which refers not only to an officer of a county or judicial district, but also expressly refers to an officer of a superior court. The provision defines a county officer as an officer of a county, superior court, or judicial district. The definition, however, applies only to an article that governs a revolving fund of the county.³⁶ Money in that fund may not be spent on any service or material unless it is a charge against the county.³⁷ As the county no longer funds or manages the court, it seems unlikely that a court officer could use this revolving fund. Accordingly, it appears the definition of a county officer that applies to the revolving fund should no longer include a superior court officer. The Commission therefore recommends deleting the reference to a superior court officer from Section 29320.³⁸

Provisions with Material that Remains Applicable to a Superior Court

Some provisions that refer to “a county or judicial district” or use a similar phrase contain material that remains applicable to a superior court, as well as a county. These provisions require revision beyond deleting the now redundant reference to the judicial district.³⁹ Because the

35. See, e.g., proposed amendments to Gov’t Code §§ 24351, 25252.6, 29370, 29370.1, 29371, 29372, 29373, 29374, 29375, 29376, 29377, 29379, 31116 *infra*.

36. Gov’t Code § 29320.

37. Gov’t Code § 29326.

38. See proposed amendment to Gov’t Code § 29320 *infra*.

39. The deletion of the reference to a judicial district is explained in the text accompanying notes 28-30 & 33-34 *supra*.

reference to the county no longer encompasses the superior court, a reference to the court needs to be added.⁴⁰

Some of the provisions, however, are located in a title of the Government Code that relates to counties. An example is Government Code Section 24350, which pertains to the collection of fees. Instead of adding a reference to the court in this location, the Commission recommends relocating the material applicable to the court to a new provision in the title of the Government Code that relates to courts.⁴¹

FINES, FORFEITURES, AND DEPOSITS GOVERNED BY BUSINESS AND PROFESSIONS CODE SECTION 25762

Business and Professions Code Section 25762 governs the distribution of fines, bail forfeitures, and bail deposits, relating to a violation of the Alcoholic Beverage Control Act.⁴² The section provides that money from such fines,

40. See, e.g., proposed amendments to Gov't Code §§ 1750, 27080.1 *infra*. Further adjustments are also needed to make these provisions apply properly to the court. For example, Government Code Section 1750 provides that “officers of a county or judicial district” shall provide written notice of resignation to “the clerk of the board of supervisors of their respective counties” It would be inappropriate to simply replace the reference to “judicial district” with a reference to “superior court,” because a superior court officer does not report to the board of supervisors, and thus should not have to provide written notice of resignation to the clerk of that board. Instead, a superior court officer should be required to provide written notice of resignation to the presiding judge. See proposed amendment to Gov't Code § 1750 *infra*.

41. See proposed new Gov't Code § 68083 & Comment *infra*. The Commission similarly recommends relocating material in Government Code Section 24353 that is applicable to the superior court to the title of the Government Code that relates to courts. See proposed new Gov't Code § 68083.5 & Comment *infra*.

42. See Bus. & Prof. Code § 25762; see also Bus. & Prof. Code § 23000 (providing that Sections 23000-25762 are Alcoholic Beverage Control Act).

forfeitures, and deposits is distributed based on which court — superior or municipal — collects the money. The money collected by a *superior court* is to be paid to the county.⁴³ The money collected by a *municipal court* is to be deposited with the county, but then distributed to a variety of governmental entities pursuant to a scheme set forth in other sections.⁴⁴

Because municipal courts no longer exist, Section 25762 should no longer refer to the municipal court as a way of directing where money is to be distributed. However, revisions to remove references to the municipal court from Section 25762 should preserve where money is distributed. This would be consistent with the long-standing approach of revising statutes to reflect trial court restructuring reforms, without making any substantive changes other than those necessary to reflect those reforms.

As a result, the Commission recommends revising the provision to direct money based on the *type of case* in which the money is collected, rather than which court collects the money.⁴⁵ To accomplish that, money collected in a *type of case* that was formerly heard by a *municipal court* would be directed in the same manner as money that was formerly

43. See Bus. & Prof. Code § 25762 (providing that money “collected in any court *other than a municipal court* shall be paid to the county treasurer of the county in which the court is held”) (emphasis added).

44. See Bus. & Prof. Code § 25762 (providing that money collected by a municipal court is to be distributed pursuant to Penal Code Section 1463); see also Penal Code §§ 1463 (directing “[a]ll fines and forfeitures imposed and collected for crimes” to “be distributed in accordance with Section 1463.001”), 1463.001 (directing money to be distributed to variety of governmental entities).

45. See proposed amendment to Bus. & Prof. Code § 25762 & Comment *infra*.

collected by a *municipal court*.⁴⁶ Money collected in a *type of case* that was formerly heard by a *superior court* would be directed in the same manner as money that was formerly collected by a *superior court*.⁴⁷ In sum, the type of case in which the money is collected would be a proxy for distinguishing which court would have collected the money before trial court restructuring, and would be used to determine the distribution of that money.

FURTHER WORK

This recommendation does not deal with all remaining statutes that need revision due to trial court restructuring. The Commission will continue to make recommendations on the subject as issues are resolved and time warrants. Failure to address a particular statute in this recommendation should not be construed to mean that the Commission has decided the statute should be preserved. The statute may be the subject of a future recommendation by the Commission.

46. See proposed amendment to Bus. & Prof. Code § 25762(b) & Comment *infra*. Specifically, money collected in a type of criminal case formerly heard by the municipal court would be deposited with the county, then distributed to a variety of governmental entities, as before. *Id.* (The proposed amendment only refers to the types of *criminal* cases formerly heard by the municipal court, because there do not appear to be any *civil* cases in which money is collected under Section 25762.)

47. See proposed amendment to Bus. & Prof. Code § 25762(a), (c) & Comment *infra*. Specifically, money collected in a type of criminal case heard by the superior court before unification would be paid to the county, as before. *Id.* (The proposed amendment only refers to the types of *criminal* cases heard by the superior court before unification, because there do not appear to be any *civil* cases in which money is collected under Section 25762.)

IMPACT OF THE PROPOSED REFORMS

The recommended legislation would update numerous statutes to reflect trial court restructuring. That would help avoid confusion and prevent disputes, thereby reducing litigation expenses and conserving judicial resources.

Contents

Bus. & Prof. Code § 25762 (amended). Fines, bail forfeitures, and bail deposits for violation of Alcoholic Beverage Control Act.....	179
Code Civ. Proc. § 116.940 (amended). Advisory services	180
Code Civ. Proc. § 631.1 (repealed). Option to pay jury fees in civil case	182
Code Civ. Proc. § 631.2 (amended). Option to pay jury fees in civil case	183
Educ. Code § 56159 (amended). Individual in licensed children’s institution or foster family home	184
Evid. Code § 754 (amended). Interpreter for individual who is deaf or hearing impaired	184
Fam. Code § 1814 (amended). Family conciliation court personnel	188
Fam. Code § 1820 (amended). Joint family conciliation court services.....	190
Fam. Code § 1834 (amended). Assistance to family conciliation court petitioner.....	192
Fam. Code § 1838 (amended). Family conciliation court proceedings	192
Fam. Code § 1850 (amended). Duties of Judicial Council.....	193
Fam. Code § 3025.5 (amended). Confidential court files.....	194
Fam. Code § 3170 (amended). Custody and visitation mediation and domestic violence cases.....	195
Fam. Code § 3173 (amended). Mediation of dispute on existing custody or visitation order	196
Fam. Code § 3188 (amended). Confidential mediation program.....	196
Fam. Code § 6303 (amended). Support person for domestic violence victim	198
Fam. Code § 7553 (amended). Compensation of expert witness	200
Fam. Code § 7556 (amended). Application of part to criminal actions.....	200
Gov’t Code § 1750 (amended). Resignation by specified officers	201
Gov’t Code § 23249 (amended). County Boundary Review Commission’s determination of boundaries and districts	202
Gov’t Code § 23332 (amended). County Boundary Review Commission’s determination of proposed county’s boundaries and districts.....	204
Gov’t Code § 23535 (amended). County Boundary Review Commission’s determination of consolidated county’s boundaries and districts	205
Gov’t Code § 24350 (amended). Collection of fees	206
Gov’t Code § 24351 (amended). Deposit of trust money	207
Gov’t Code § 24353 (amended). Collection of money payable into county treasury	207
Gov’t Code § 25252.6 (amended). Revolving cash trust fund	208
Gov’t Code § 27080.1 (amended). County depository	209
Gov’t Code § 29320 (amended). “Officer of county” defined	210

Gov't Code § 29370 (amended). County officers' cash difference fund.....211

Gov't Code § 29370.1 (amended). County auditor211

Gov't Code § 29371 (amended). Overage fund213

Gov't Code § 29372 (amended). Warrant213

Gov't Code § 29373 (amended). Daily written report214

Gov't Code § 29374 (amended). Cash deficit reimbursement215

Gov't Code § 29375 (amended). Deposit of overage216

Gov't Code § 29376 (amended). Account of cash difference fund216

Gov't Code § 29377 (amended). Application to replenish cash difference
fund217

Gov't Code § 29379 (amended). Discontinuance of cash difference fund.....218

Gov't Code § 29603 (amended). Payments to jurors and witnesses218

Gov't Code § 31116 (amended). Travel expenses of county applicants219

Gov't Code § 68083 (added). Collection of fees220

Gov't Code § 68083.5 (added). Collection of money payable into county
treasury220

Gov't Code § 68098 (amended). Witness fees in criminal cases221



PROPOSED LEGISLATION

Bus. & Prof. Code § 25762 (amended). Fines, bail forfeitures, and bail deposits for violation of Alcoholic Beverage Control Act

SEC. ____ . Section 25762 of the Business and Professions Code is amended to read:

25762. (a) All fines and forfeitures of bail imposed for a violation of this division and collected in any ~~court other than a municipal court~~ felony case after the indictment or the legal commitment by a magistrate, or at or after the sentencing hearing, shall be paid to the county treasurer of the county in which the court is held.

(b) All fines and forfeitures of bail imposed for violation of this division and collected upon conviction or upon forfeiture of bail, together with money deposited as bail, in any ~~municipal court~~ misdemeanor or infraction case, or in any felony case at the preliminary hearing or at another proceeding before the legal commitment by a magistrate, shall be deposited with the county treasurer of the county in which the court is situated and the money deposited shall be distributed and disposed of pursuant to Section 1463 of the Penal Code.

(c) For purposes of this section, a case in which both a felony and a misdemeanor were charged shall be treated as a felony case.

Comment. Section 25762 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. The amendment seeks to preserve the pre-unification status quo with regard to the distribution of fines and bail forfeitures collected for violations of the Alcoholic Beverage Control Act (hereafter, “the Act”).

Subdivision (a) is amended to replace the reference to such fines and bail forfeitures imposed and collected in “any court other than a municipal court.” The amendment tracks the criminal jurisdiction of the superior court as it existed before trial court unification.

Similarly, subdivision (b) is amended to replace the reference to fines, bail forfeitures, and bail deposits under the Act “in any municipal court.” The amendment generally tracks the criminal jurisdiction of the municipal court as it existed before trial court unification.

Subdivision (c) makes clear how this section applies to a case in which both a felony and a misdemeanor were charged. The case is to be treated as a felony, even if the felony charge was dismissed. This is consistent with pre-unification practice. See generally *People v. Leney*, 213 Cal. App. 3d 265, 268, 261 Cal. Rptr. 541 (1989) (superior court has jurisdiction to try remaining misdemeanor even if felony charge eliminated before trial); *People v. Clark*, 17 Cal. App. 3d 890, 897-98, 95 Cal. Rptr. 411 (1971) (same).

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

SEC. _____. Section 116.940 of the Code of Civil Procedure is amended to read:

116.940. (a) Except as otherwise provided in this section or in rules adopted by the Judicial Council, which are consistent with the requirements of this section, the characteristics of the small claims advisory service required by Section 116.260 shall be determined by each county, or by the superior court in a county where the small claims advisory service is administered by the court, in accordance with local needs and conditions.

(b) Each advisory service shall provide the following services:

(1) Individual personal advisory services, in person or by telephone, and by any other means reasonably calculated to provide timely and appropriate assistance. The topics covered by individual personal advisory services shall include, but not be limited to, preparation of small claims court filings, procedures, including procedures related to the conduct of the hearing, and information on the collection of small claims court judgments.

(2) Recorded telephone messages may be used to supplement the individual personal advisory services, but

shall not be the sole means of providing advice available in the county.

(3) Adjacent counties, superior courts in adjacent counties, or any combination thereof, may provide advisory services jointly.

(c) In any county in which the number of small claims actions filed annually is 1,000 or less as averaged over the immediately preceding two fiscal years, the county or the superior court may elect to exempt itself from the requirements set forth in subdivision (b). ~~This~~ If the small claims advisory service is administered by the county, this exemption shall be formally noticed through the adoption of a resolution by the board of supervisors. If the small claims advisory service is administered by the superior court, this exemption shall be formally noticed through adoption of a local rule. If a county or court so exempts itself, the county or court shall nevertheless provide the following minimum advisory services in accordance with rules adopted by the Judicial Council:

(1) Recorded telephone messages providing general information relating to small claims actions filed in the county shall be provided during regular business hours.

(2) Small claims information booklets shall be provided in the court clerk's office of each superior court, ~~the county administrator's office, other~~ appropriate county offices, and in any other location that is convenient to prospective small claims litigants in the county.

(d) The advisory service shall operate in conjunction and cooperation with the small claims division, and shall be administered so as to avoid the existence or appearance of a conflict of interest between the individuals providing the advisory services and any party to a particular small claims action or any judicial officer deciding small claims actions.

(e) Advisers may be volunteers, and shall be members of the State Bar, law students, paralegals, or persons experienced in resolving minor disputes, and shall be familiar with small claims court rules and procedures. Advisers may not appear in court as an advocate for any party.

(f) Advisers, including independent contractors, other employees, and volunteers have the immunity conferred by Section 818.9 of the Government Code with respect to advice provided as a public service on behalf of a court or county to small claims litigants and potential litigants under this chapter.

(g) Nothing in this section precludes a court or county from contracting with a third party to provide small claims advisory services as described in this section.

Comment. Section 116.940 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See Gov't Code §§ 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.810(d), Function 10 ("small claims advisor program costs").

As amended, Section 116.940 makes explicit that a small claims advisory service can be run by the county, by the court, or by a third party who has contracted with the county or the court to provide small claims advisory services. For a similar provision, see Section 116.230 (filing fees for small claims cases).

Code Civ. Proc. § 631.1 (repealed). Option to pay jury fees in civil case

SEC. _____. Section 631.1 of the Code of Civil Procedure is repealed.

~~631.1. Notwithstanding any other provision of law, the county may pay jury fees in civil cases from general funds of the county available therefor. Nothing in this section shall be construed to change the requirements for the deposit of jury fees in any civil case by the appropriate party to the litigation at the time and in the manner otherwise provided by law.~~

~~Nothing in this section shall preclude the right of the county to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section.~~

Comment. Section 631.1 is repealed as surplusage, because it is identical to Section 631.2(a). This is not a substantive change.

Code Civ. Proc. § 631.2 (amended). Option to pay jury fees in civil case

SEC. _____. Section 631.2 of the Code of Civil Procedure is amended to read:

631.2. (a) Notwithstanding any other provision of law, the county superior court may pay jury fees in civil cases from general funds of the county court available therefor. Nothing in this section shall be construed to change the requirements for the deposit of jury fees in any civil case by the appropriate party to the litigation at the time and in the manner otherwise provided by law. Nothing in this section shall preclude the right of the county superior court to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section. Nothing in this section shall preclude the right of the county to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section as it read in Section 4 of Chapter 10 of the Statutes of 1988, or pursuant to former Section 631.1 as it read in Section 1 of Chapter 144 of the Statutes of 1971.

(b) The party who has demanded trial by jury shall reimburse the county superior court for the fees and mileage of all jurors appearing for voir dire examination, except those jurors who are excused and subsequently on the same day are called for voir dire examination in another case.

Comment. Section 631.2 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77200 (state funding of “court operations”); see also Cal. R. Ct. 10.810(d), Function 2 (jury services).

Educ. Code § 56159 (amended). Individual in licensed children’s institution or foster family home

SEC. ____ . Section 56159 of the Education Code is amended to read:

56159. If a district, special education local plan area, or county office does not make the placement decision of an individual with exceptional needs in a licensed children’s institution or in a foster family home, the ~~court~~, regional center for the developmentally disabled, or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

Comment. Section 56159 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov’t Code §§ 77000-77655). See, e.g., Gov’t Code §§ 77003 (“court operations” defined), 77200 (state funding of “court operations”); *cf.* Cal. R. Ct. 10.810 (not listing payment of individual’s residential and non-educational services as “court operation”). The amendment also reflects that the decision to place an individual with exceptional needs is no longer made by the court. See *In re Robert A.*, 4 Cal. App. 4th 174, 187-88, 5 Cal. Rptr. 2d 438 (1992) (explaining that former statutory law had permitted court to make such placement decision).

Evid. Code § 754 (amended). Interpreter for individual who is deaf or hearing impaired

SEC. ____ . Section 754 of the Evidence Code is amended to read:

754. (a) As used in this section, “individual who is deaf or hearing impaired” means an individual with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone, but does not include an individual who is hearing impaired provided with, and able to fully participate in the proceedings through the use of, an assistive listening system or computer-aided transcription equipment provided pursuant to Section 54.8 of the Civil Code.

(b) In any civil or criminal action, including, but not limited to, any action involving a traffic or other infraction, any small claims court proceeding, any juvenile court proceeding, any family court proceeding or service, or any proceeding to determine the mental competency of a person, in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or any administrative hearing, where a party or witness is an individual who is deaf or hearing impaired and the individual who is deaf or hearing impaired is present and participating, the proceedings shall be interpreted in a language that the individual who is deaf or hearing impaired understands by a qualified interpreter appointed by the court or other appointing authority, or as agreed upon.

(c) For purposes of this section, “appointing authority” means a court, department, board, commission, agency, licensing or legislative body, or other body for proceedings requiring a qualified interpreter.

(d) For the purposes of this section, “interpreter” includes, but is not limited to, an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the individual who is deaf or hearing impaired.

(e) For purposes of this section, “intermediary interpreter” means an individual who is deaf or hearing impaired, or a hearing individual who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language or between American Sign Language and other foreign languages by acting as an intermediary between the individual who is deaf or hearing impaired and the qualified interpreter.

(f) For purposes of this section, “qualified interpreter” means an interpreter who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as

qualified to administer tests to court interpreters for individuals who are deaf or hearing impaired.

(g) In the event that the appointed interpreter is not familiar with the use of particular signs by the individual who is deaf or hearing impaired or his or her particular variant of sign language, the court or other appointing authority shall, in consultation with the individual who is deaf or hearing impaired or his or her representative, appoint an intermediary interpreter.

(h) Prior to July 1, 1992, the Judicial Council shall conduct a study to establish the guidelines pursuant to which it shall determine which testing organizations, agencies, or educational institutions will be approved to administer tests for certification of court interpreters for individuals who are deaf or hearing impaired. It is the intent of the Legislature that the study obtain the widest possible input from the public, including, but not limited to, educational institutions, the judiciary, linguists, members of the State Bar, court interpreters, members of professional interpreting organizations, and members of the deaf and hearing-impaired communities. After obtaining public comment and completing its study, the Judicial Council shall publish these guidelines. By January 1, 1997, the Judicial Council shall approve one or more entities to administer testing for court interpreters for individuals who are deaf or hearing impaired. Testing entities may include educational institutions, testing organizations, joint powers agencies, or public agencies.

Commencing July 1, 1997, court interpreters for individuals who are deaf or hearing impaired shall meet the qualifications specified in subdivision (f).

(i) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is

considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. ~~Payment~~ Except as provided in subdivision (j), payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, ~~in which that action is pending~~ court. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board or authority.

(j) Whenever a peace officer or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or non-court proceeding questions or otherwise interviews an alleged victim or witness who demonstrates or alleges deafness or hearing impairment, a good faith effort to secure the services of an interpreter shall be made, without any unnecessary delay unless either the individual who is deaf or hearing impaired affirmatively indicates that he or she does not need or cannot use an interpreter, or an interpreter is not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which the action is pending.

(k) No statement, written or oral, made by an individual who the court finds is deaf or hearing impaired in reply to a question of a peace officer, or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or proceeding, may be used against that individual who is deaf or hearing impaired unless the question was accurately interpreted and the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court makes special findings that either the individual could not have used an interpreter or an interpreter was not otherwise required by Title II of the

Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder and that the statement was made knowingly, voluntarily, and intelligently.

(l) In obtaining services of an interpreter for purposes of subdivision (j) or (k), priority shall be given to first obtaining a qualified interpreter.

(m) Nothing in subdivision (j) or (k) shall be deemed to supersede the requirement of subdivision (b) for use of a qualified interpreter for individuals who are deaf or hearing impaired participating as parties or witnesses in a trial or hearing.

(n) In any action or proceeding in which an individual who is deaf or hearing impaired is a participant, the appointing authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the participating individual who is deaf or hearing impaired.

(o) Each superior court shall maintain a current roster of qualified interpreters certified pursuant to subdivision (f).

Comment. Subdivisions (i) and (j) of Section 754 are amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.810(d), Function 4 (court interpreters).

Fam. Code § 1814 (amended). Family conciliation court personnel

SEC. ____ . Section 1814 of the Family Code is amended to read:

1814. (a) In each county in which a family conciliation court is established, the superior court may appoint one supervising counselor of conciliation and one secretary to assist the family conciliation court in disposing of its business and carrying out its functions. ~~In counties which have~~ When superior courts by contract have established joint family

conciliation court services, the ~~superior~~ contracting courts in ~~contracting counties~~ jointly may make the appointments under this subdivision.

(b) The supervising counselor of conciliation has the power to do all of the following:

(1) Hold conciliation conferences with parties to, and hearings in, proceedings under this part, and make recommendations concerning the proceedings to the judge of the family conciliation court.

(2) Provide supervision in connection with the exercise of the counselor's jurisdiction as the judge of the family conciliation court may direct.

(3) Cause reports to be made, statistics to be compiled, and records to be kept as the judge of the family conciliation court may direct.

(4) Hold hearings in all family conciliation court cases as may be required by the judge of the family conciliation court, and make investigations as may be required by the court to carry out the intent of this part.

(5) Make recommendations relating to marriages where one or both parties are underage.

(6) Make investigations, reports, and recommendations as provided in Section 281 of the Welfare and Institutions Code under the authority provided the probation officer in that code.

(7) Act as domestic relations cases investigator.

(8) Conduct mediation of child custody and visitation disputes.

(c) The superior court, or contracting superior courts, may also appoint, ~~with the consent of the board of supervisors,~~ associate counselors of conciliation and other office assistants as may be necessary to assist the family conciliation court in disposing of its business. The associate counselors shall carry out their duties under the supervision of the supervising

counselor of conciliation and have the powers of the supervising counselor of conciliation. Office assistants shall work under the supervision and direction of the supervising counselor of conciliation.

(d) The classification and salaries of persons appointed under this section shall be determined by:

(1) The ~~board of supervisors~~ superior court of the county in which a noncontracting family conciliation court operates.

(2) The ~~board of supervisors~~ superior court of the county which by contract has the responsibility to administer funds of the joint family conciliation court service.

Comment. Subdivision (a) of Section 1814 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.810.

Subdivisions (c) and (d) are amended to reflect enactment of the Trial Court Employment Protection and Governance Act, 2000 Cal. Stat. ch. 1010 (codified as Gov't Code §§ 71600-71675). See, e.g., Gov't Code §§ 71620(a) (job classifications and appointments), 71623(a) ("Each trial court may establish a salary range for each of its employee classifications.").

Fam. Code § 1820 (amended). Joint family conciliation court services

SEC. ____ . Section 1820 of the Family Code is amended to read:

1820. (a) A ~~county~~ court may contract with any other ~~county~~ court or ~~counties~~ courts to provide joint family conciliation court services.

(b) An agreement between two or more ~~counties~~ courts for the operation of a joint family conciliation court service may provide that ~~the treasurer of~~ one participating ~~county~~ court shall be the custodian of moneys made available for the purposes of the joint services, and that the ~~treasurer~~ custodian ~~court~~ may make payments from the moneys upon audit of the

appropriate auditing officer or body of the ~~county of that treasurer court.~~

(c) An agreement between two or more ~~counties courts~~ for the operation of a joint family conciliation court service may also provide:

(1) For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating ~~county court~~ under contract for the other participating ~~counties courts.~~

(2) For appointments of members of the staff of the family conciliation court including the supervising counselor.

(3) That, for specified purposes, the members of the staff of the family conciliation court including the supervising counselor, but excluding the judges of the family conciliation court ~~and other court personnel,~~ shall be considered to be employees of one participating ~~county court.~~

(4) For other matters that are necessary or proper to effectuate the purposes of the Family Conciliation Court Law.

(d) The provisions of this part relating to family conciliation court services provided by a single ~~county court~~ shall be equally applicable to ~~counties courts~~ which contract, pursuant to this section, to provide joint family conciliation court services.

Comment. Section 1820 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.810.

The section is also amended to reflect enactment of the Trial Court Employment Protection and Governance Act, 2000 Cal. Stat. ch. 1010 (codified as Gov't Code §§ 71600-71675). See, e.g., Gov't Code § 71620(a) (job classifications and appointments).

Fam. Code § 1834 (amended). Assistance to family conciliation court petitioner

SEC. _____. Section 1834 of the Family Code is amended to read:

1834. (a) The clerk of the court shall provide, at the expense of the ~~county~~ court, blank forms for petitions for filing pursuant to this part.

(b) The probation officers of the county and the ~~attaches~~ attachés and employees of the family conciliation court shall assist a person in the preparation and presentation of a petition under this part if the person requests assistance.

(c) All public officers in each county shall refer to the family conciliation court all petitions and complaints made to them in respect to controversies within the jurisdiction of the family conciliation court.

(d) The jurisdiction of the family conciliation court in respect to controversies arising out of an instance of domestic violence is not exclusive but is coextensive with any other remedies either civil or criminal in nature that may be available.

Comment. Subdivision (a) of Section 1834 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.810(d), Function 10 ("court operations" include "publications and legal notices, by the court"); *cf.* Cal. R. Ct. 10.810(d), Function 6 (listing "court operations" relating to dispute resolution programs, including conciliators, but signaling that "[a]ny other related services, supplies, and equipment" are allowable under Function 10").

Subdivision (b) is amended to make a stylistic revision.

Fam. Code § 1838 (amended). Family conciliation court proceedings

SEC. _____. Section 1838 of the Family Code is amended to read:

1838. (a) The hearing shall be conducted informally as a conference or a series of conferences to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues in controversy.

(b) To facilitate and promote the purposes of this part, the court may, with the consent of both parties to the proceeding, recommend or invoke the aid of medical or other specialists or scientific experts, or of the pastor or director of any religious denomination to which the parties may belong. Aid under this subdivision shall not be at the expense of the court unless the presiding judge specifically authorizes the aid, nor at the expense ~~of~~ of the county unless the board of supervisors of the county specifically provides and authorizes the aid.

Comment. Section 1838 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.603(a) (responsibilities of presiding judge of superior court).

Fam. Code § 1850 (amended). Duties of Judicial Council

SEC. _____. Section 1850 of the Family Code is amended to read:

1850. The Judicial Council shall do all of the following:

(a) Assist ~~counties~~ courts in implementing mediation and conciliation proceedings under this code.

(b) Establish and implement a uniform statistical reporting system relating to proceedings brought for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, including, but not limited to, a custody disposition survey.

(c) Administer a program of grants to public and private agencies submitting proposals for research, study, and demonstration projects in the area of family law, including, but not limited to, all of the following:

(1) The development of conciliation and mediation and other newer dispute resolution techniques, particularly as they relate to child custody and to avoidance of litigation.

(2) The establishment of criteria to ensure that a child support order is adequate.

(3) The development of methods to ensure that a child support order is paid.

(4) The study of the feasibility and desirability of guidelines to assist judges in making custody decisions.

(d) Administer a program for the training of court personnel involved in family law proceedings, which shall be available to the court personnel and which shall be totally funded from funds specified in Section 1852. The training shall include, but not be limited to, the order of preference for custody of minor children and the meaning of the custody arrangements under Part 2 (commencing with Section 3020) of Division 8.

(e) Conduct research on the effectiveness of current family law for the purpose of shaping future public policy.

Comment. Subdivision (a) of Section 1850 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.810.

Fam. Code § 3025.5 (amended). Confidential court files

SEC. _____. Section 3025.5 of the Family Code is amended to read:

3025.5. In any proceeding involving child custody or visitation rights, if a report containing psychological evaluations of a child or recommendations regarding custody of, or visitation with, a child is submitted to the court, including, but not limited to, a report created pursuant to Chapter 6 (commencing with Section 3110) of this part, a recommendation made to the court pursuant to Section 3183,

and a written statement of issues and contentions pursuant to subdivision (b) of Section 3151, that information shall be contained in a document that shall be placed in the confidential portion of the court file of the proceeding, and may not be disclosed, except to the following persons:

(a) A party to the proceeding and his or her attorney.

(b) A federal or state law enforcement officer, judicial officer, court employee, or family court facilitator ~~for~~ of the superior court of the county in which the action was filed, or an employee or agent of that facilitator, acting within the scope of his or her duties.

(c) Counsel appointed for the child pursuant to Section 3150.

(d) Any other person upon order of the court for good cause.

Comment. Subdivision (b) of Section 3025.5 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655).

Fam. Code § 3170 (amended). Custody and visitation mediation and domestic violence cases

SEC. ____ . Section 3170 of the Family Code is amended to read:

3170. (a) If it appears on the face of a petition, application, or other pleading to obtain or modify a temporary or permanent custody or visitation order that custody, visitation, or both are contested, the court shall set the contested issues for mediation.

(b) Domestic violence cases shall be handled by Family Court Services in accordance with a separate written protocol approved by the Judicial Council. The Judicial Council shall adopt guidelines for services, other than services provided under this chapter, that courts or counties may offer to parents who have been unable to resolve their disputes. These services may include, but are not limited to, parent education

programs, booklets, video recordings, or referrals to additional community resources.

Comment. Subdivision (b) of Section 3170 is amended to reflect the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655).

Fam. Code § 3173 (amended). Mediation of dispute on existing custody or visitation order

SEC. _____. Section 3173 of the Family Code is amended to read:

3173. (a) ~~Upon the adoption of a resolution by the board of supervisors~~ an order of the presiding judge of a superior court authorizing the procedure in that court, a petition may be filed pursuant to this chapter for mediation of a dispute relating to an existing order for custody, visitation, or both.

(b) The mediation of a dispute concerning an existing order shall be set not later than 60 days after the filing of the petition.

Comment. Subdivision (a) of Section 3173 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.603(a) (responsibilities of presiding judge of superior court).

Fam. Code § 3188 (amended). Confidential mediation program

SEC. _____. Section 3188 of the Family Code is amended to read:

3188. (a) Any court selected by the Judicial Council under subdivision (c) may voluntarily adopt a confidential mediation program that provides for all of the following:

(1) The mediator may not make a recommendation as to custody or visitation to anyone other than the disputing parties, except as otherwise provided in this section.

(2) If total or partial agreement is reached in mediation, the mediator may report this fact to the court. If both parties consent in writing, where there is a partial agreement, the mediator may report to the court a description of the issues still in dispute, without specific reference to either party.

(3) In making the recommendation described in Section 3184, the mediator may not inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.

(4) If the parties have not reached agreement as a result of the initial mediation, this section does not prohibit the court from requiring subsequent mediation that may result in a recommendation as to custody or visitation with the child if the subsequent mediation is conducted by a different mediator with no prior involvement with the case or knowledge of any communications, as defined in Section 1040 of the Evidence Code, with respect to the initial mediation. The court, however, shall inform the parties that the mediator will make a recommendation to the court regarding custody or visitation in the event that the parties cannot reach agreement on these issues.

(5) If an initial screening or intake process indicates that the case involves serious safety risks to the child, such as domestic violence, sexual abuse, or serious substance abuse, the ~~court~~ mediator may provide an initial emergency assessment service that includes a recommendation to the court concerning temporary custody or visitation orders in order to expeditiously address those safety issues.

(b) This section shall become operative upon the appropriation of funds in the annual Budget Act sufficient to implement this section.

(c) This section shall apply only in four or more ~~counties~~ superior courts selected by the Judicial Council that currently allow a mediator to make custody recommendations to the

court and have more than 1,000 family law case filings per year. The Judicial Council may also make this section applicable to additional ~~counties~~ superior courts that have fewer than 1,000 family law case filings per year.

Comment. Paragraph (5) of subdivision (a) of Section 3188 is amended to make a technical correction. An erroneous reference to “the court” is replaced with a reference to “the mediator.”

Subdivision (c) of Section 3188 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov’t Code §§ 77000-77655). See, e.g., Gov’t Code § 77001 (local trial court management); see also Fam. Code § 3183(a) (authorizing mediator to make recommendations, except as provided in Section 3188, to court consistent with local rules).

Fam. Code § 6303 (amended). Support person for domestic violence victim

SEC. ____ . Section 6303 of the Family Code is amended to read:

6303. (a) It is the function of a support person to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The person who alleges that he or she is a victim of domestic violence may select any individual to act as a support person. No certification, training, or other special qualification is required for an individual to act as a support person. The support person shall assist the person in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings where the person and the other party must be present in close proximity. The support person is not present as a legal adviser and shall not give legal advice.

(b) A support person shall be permitted to accompany either party to any proceeding to obtain a protective order, as defined in Section 6218. Where the party is not represented by an attorney, the support person may sit with the party at the table that is generally reserved for the party and the party’s attorney.

(c) Notwithstanding any other provision of law to the contrary, if a court has issued a protective order, a support person shall be permitted to accompany a party protected by the order during any mediation orientation or mediation session, including separate mediation sessions, held pursuant to a proceeding described in Section 3021. The Family Court Services, and any agency charged with providing family court services, shall advise the party protected by the order of the right to have a support person during mediation. A mediator may exclude a support person from a mediation session if the support person participates in the mediation session, or acts as an advocate, or the presence of a particular support person is disruptive or disrupts the process of mediation. The presence of the support person does not waive the confidentiality of the mediation, and the support person is bound by the confidentiality of the mediation.

(d) In a proceeding subject to this section, a support person shall be permitted to accompany a party in court where there are allegations or threats of domestic violence and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney.

(e) Nothing in this section precludes a court from exercising its discretion to remove a person from the courtroom when it would be in the interest of justice to do so, or when the court believes the person is prompting, swaying, or influencing the party protected by the order.

Comment. Subdivision (c) of Section 6303 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Fam. Code § 3170(b) (requiring domestic violence cases to be handled by Family Court Services according to approved protocol by Judicial Council); Cal. R. Ct. 5.215(b) ("This rule sets forth protocol for Family Court Services' handling of domestic violence cases consistent

with requirement of Family Code section 3170(b).”), Cal. R. Ct. 5.215(h)(1) (“Family Court Services staff must advise the party protected by a protective order of the right to have a support person attend any mediation orientation or mediation sessions, including separate mediation sessions, under Family Code section 6303.”).

Fam. Code § 7553 (amended). Compensation of expert witness

SEC. _____. Section 7553 of the Family Code is amended to read:

7553. (a) The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order. ~~The~~ Except as provided in subdivision (b), the court may order that it be paid by the parties in the proportions and at the times the court prescribes, or that the proportion of any party be paid by the county, and that, after payment by the parties or the county or both, all or part or none of it be taxed as costs in the action or proceeding.

(b) If the expert witness is appointed for the court’s needs, the compensation shall be paid by the court.

Comment. Section 7553 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov’t Code §§ 77000-77655). See, e.g., Gov’t Code §§ 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”); see also Cal. R. Ct. 10.810(d), Function 10 (“court operations” include “court-appointed expert witness fees (for the court’s needs)”).

The amendment reflects that an expert whose compensation is governed by Section 7553 may be appointed by the court for the court’s needs. See Sections 7551 (providing that “court may upon its own initiative” order genetic test), 7552 (providing for genetic tests and appointment of other experts), 7556(a) (providing that order for tests may be made “on the court’s initiative”).

Fam. Code § 7556 (amended). Application of part to criminal actions

SEC. _____. Section 7556 of the Family Code is amended to read:

7556. This part applies to criminal actions subject to the following limitations and provisions:

(a) An order for the tests shall be made only upon application of a party or on the court's initiative.

(b) The compensation of the experts, other than an expert witness appointed by the court for the court's needs, shall be paid by the county under order of court. The compensation of an expert witness appointed for the court's needs shall be paid by the court.

(c) The court may direct a verdict of acquittal upon the conclusions of all the experts under Section 7554; otherwise, the case shall be submitted for determination upon all the evidence.

Comment. Section 7556 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See, e.g., Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations"); see also Cal. R. Ct. 10.810(d), Function 10 ("court operations" include "court-appointed expert witness fees (for the court's needs)").

Gov't Code § 1750 (amended). Resignation by specified officers

SEC. _____. Section 1750 of the Government Code is amended to read:

1750. Resignations shall be in writing, and made as follows:

(a) By the Governor and Lieutenant Governor, to the Legislature, if it is in session; and if not, then to the Secretary of State.

(b) By all officers commissioned by the Governor, to the Governor.

(c) By Senators and Members of the Assembly, to the presiding officers of their respective houses, who shall immediately transmit the resignation to the Governor.

(d) By all officers of a county ~~or judicial district~~ or special district other than an air pollution control district which includes territory in more than one county or a school district, not commissioned by the Governor, to the clerk of the board of supervisors of their respective counties, unless by the terms of the act under which a district is formed appointment to vacancies is made by other than the board of supervisors, in which case the resignation shall be submitted to the appointing body.

(e) By officers of a superior court, to the presiding judge.

(f) By officers of a municipal corporation, to the clerk of the legislative body of their corporation.

~~(f)~~ (g) By all other appointed officers, to the body or officer that appointed them.

Comment. Section 1750 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations").

Gov't Code § 23249 (amended). County Boundary Review

Commission's determination of boundaries and districts

SEC. ____ . Section 23249 of the Government Code is amended to read:

23249. The commission shall determine:

(a) An equitable distribution, as between the transferring county and the accepting county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed boundary change in each affected county.

(c) The economic viability of each affected county if the proposed boundary change is effected.

(d) The final boundary lines between the two affected counties as they will exist if the proposed boundary change is effected.

(e) A procedure for the orderly and timely transition of services, functions and responsibilities from the transferring county to the accepting county.

(f) The division of both affected counties into five supervisorial districts. The boundaries of the districts shall be established in a manner that results in a population in each district which is as equal as possible to the population in each other district within the county.

(g) The division of both affected counties into a convenient and necessary number of ~~judicial~~, road and school districts, the territory of which shall be defined. To the extent possible, existing ~~judicial~~, road and school districts located within the territory which is to be transferred shall be maintained.

Comment. Subdivision (g) of Section 23249 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district"). For provisions relating to boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new county) and 69100 (court of appeal districts in existing counties).

**Gov't Code § 23332 (amended). County Boundary Review
Commission's determination of proposed county's boundaries
and districts**

SEC. _____. Section 23332 of the Government Code is amended to read:

23332. The commission shall determine all of the following:

(a) A fair, just, and equitable distribution, as between each affected county and the proposed county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed county creation on each affected county.

(c) The economic viability of the proposed county.

(d) The final boundaries of the proposed county, pursuant to Sections 23337, 23337.5, and 23338.

(e) A procedure for the orderly and timely transition of service functions and responsibilities from the affected county or counties to the proposed county.

(f) The division of the proposed county into five supervisorial districts. The boundaries of the districts shall be established in a manner which results in a population in each district which is as equal as possible to the population in each of the other districts within the county.

(g) The division of the proposed county into a convenient and necessary number of judicial, ~~road~~, road and school districts, the territory of which shall be defined. To the extent possible, existing ~~judicial~~, ~~road~~, road and school districts located within the territory of the proposed county shall be maintained.

(h) Which county offices shall be filled by election at the subsequent election of officials for an approved county conducted pursuant to Article 4.5 (commencing with Section 23374.1), and which of the offices shall be filled by appointments made by the board of supervisors of the approved county. At a minimum, the county offices to be

filled by election shall be those which by law, are required to be filled by election.

(i) That the boundaries of the proposed county do not create a territory completely surrounded by any affected county.

(j) The location of the county seat of the proposed county.

(k) The appropriations limit for the proposed county in accordance with Section 4 of Article XIII B of the California Constitution.

The commission shall not be required to make any other determinations.

Comment. Subdivision (g) of Section 23332 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district"). For provisions relating to boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new county) and 69100 (court of appeal districts in existing counties).

Gov't Code § 23535 (amended). County Boundary Review

Commission's determination of consolidated county's boundaries and districts

SEC. _____. Section 23535 of the Government Code is amended to read:

23535. The commission shall determine:

(a) The fiscal impact of the proposed consolidation on the affected counties.

(b) A procedure for the orderly and timely transition of services, functions and responsibilities from each affected county to the consolidated county.

(c) The division of the proposed consolidated county into five supervisorial districts.

(d) The division of the proposed consolidated county into a convenient and necessary number of ~~judicial~~, road and school districts, the territory of which shall be defined.

(e) The county officers to be elected at the election provided for in Section 23550.

(f) The location of the county seat of the proposed consolidated county.

Comment. Subdivision (d) of Section 23535 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district"). For provisions relating to boundaries of a court of appeal district, see Sections 23394 (court of appeal district in new county) and 69100 (court of appeal districts in existing counties).

Gov't Code § 24350 (amended). Collection of fees

SEC. _____. Section 24350 of the Government Code is amended to read:

24350. Each salaried officer of a county ~~or judicial district~~ shall charge and collect for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

Comment. Section 24350 is amended to reflect (1) unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution, and (2) enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77003 ("court operations" defined), 77200 (state funding of "court operations"). The material relating to a salaried officer of a superior court is relocated to Section 68083, because an officer of the superior court is no longer an officer of the county.

Gov't Code § 24351 (amended). Deposit of trust money

SEC. ____ . Section 24351 of the Government Code is amended to read:

24351. Unless otherwise specifically provided for by law, each officer of a county ~~or judicial district~~ shall on the certificate of the auditor immediately deposit in the county treasury all trust money coming into ~~his~~ the officer's possession officially. Trust money so deposited shall be withdrawn only on a warrant issued by the county auditor drawn ~~upon an order of the court into which the money was paid, or~~ upon requisition of the officer depositing the money ~~where no court proceedings are had.~~

Comment. Section 24351 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). For guidance regarding trust money deposited in court, see, e.g., Sections 68084 and 77009.

The section is also amended to make it gender-neutral.

Gov't Code § 24353 (amended). Collection of money payable into county treasury

SEC. ____ . Section 24353 of the Government Code is amended to read:

24353. Each officer of a county ~~or of a superior court~~ authorized to collect money shall pay into the county treasury all money collected by him or her, or under his or her control, that is payable into the treasury in a timely manner, and shall remit fee, fine, and forfeiture data within 35 days after the end of the month in which they are collected to the county auditor and treasurer in the form they require. No officer who collects money as described in this section shall be required to accept payment in coin. If the county auditor finds that an officer of the county ~~or an officer of the court~~ has failed to comply with the requirements for payment of moneys pursuant to this section or Section 68101, which directly results in the assessment of a financial penalty pursuant to Section 68085,

the county department ~~or superior court~~ that failed to comply shall reimburse the county general fund in an amount equal to the actual penalty. With the approval of the treasurer as provided in Section 27080.1, each depositing officer may deposit directly into the treasurer's active account all money payable into the county treasury. ~~On and after January 1, 2006, this section does not apply to money collected under Chapter 5.8 (commencing with Section 70600) of Title 8 or fees and fines to which Section 68085.1 applies.~~

Comment. Section 24353 is amended to reflect (1) enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655), and (2) enactment of the Trial Court Employment Protection and Governance Act, 2000 Cal. Stat. ch. 1010 (see Sections 71600-71675). The material relating to an officer of a superior court is relocated to Section 68083.5, because an officer of the superior court is no longer an officer of the county.

Gov't Code § 25252.6 (amended). Revolving cash trust fund

SEC. ____. Section 25252.6 of the Government Code is amended to read:

25252.6. The board of supervisors may in its discretion establish and determine the amount of, or may by resolution authorize the county auditor to establish and determine the amount of, a revolving cash trust fund for the purpose of eliminating delays which adversely affect the official operation of offices and departments of the county ~~or of judicial districts therein~~ resulting from regular deposits in and withdrawals from a trust fund established for the use of any ~~such~~ county officer or department head. The amount of the revolving cash trust fund shall not exceed the amount of the trust fund. The revolving cash trust fund shall be used by the officer or department head for payment of services, expenses or other charges which are legally payable out of the deposits in the trust fund.

Comment. Section 25252.6 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations").

The section is also amended to make a stylistic revision.

For provisions authorizing the board of supervisors to establish a revolving fund for use by a marshal who serves the superior court and is a county officer, see Section 71267.

Gov't Code § 27080.1 (amended). County depository

SEC. ____. Section 27080.1 of the Government Code is amended to read:

27080.1. Where the county treasurer has entered into a contract for the deposit of moneys with a depository pursuant to Section 53682, the county treasurer may authorize any county officer ~~or judicial district~~, required to deposit into the county treasury all money collected by him or her ~~or the district~~, to deposit that money directly into the depository with whom the county treasurer has entered into the contract. The county treasurer may also authorize any superior court officer to deposit money collected by the officer that is payable to the county treasury into the depository. All deposits made under authority granted by the treasurer pursuant to this section shall be made in the form as required by the treasurer, and receipts for those deposits shall be given in accordance with Section 27009.

Comment. Section 27080.1 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations").

(4) Enactment of Section 68083.5 (authorizing officer of county or superior court, with county treasurer's approval under Section 27080.1, to deposit into treasurer's active account). See also 2005 Cal. Stat. ch. 75, § 48 (enacting former Section 24353, which authorized officer of county or superior court, with county treasurer's approval under Section 27080.1, to deposit into treasurer's active account).

Gov't Code § 29320 (amended). "Officer of county" defined

SEC. _____. Section 29320 of the Government Code is amended to read:

29320. As used in this article, "officer of the county" includes any elective or appointive officer of a county; ~~superior court, or judicial district~~ and any person in charge of any office, department, service, or institution of the county, or a division or branch thereof.

Comment. Section 29320 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

See also Section 71267 & Comment (revolving fund for marshal).

Gov’t Code § 29370 (amended). County officers’ cash difference fund

SEC. _____. Section 29370 of the Government Code is amended to read:

29370. The board of supervisors may establish a county officers cash difference fund for the use of any county officer or administrative head of any county department ~~or judicial district~~ handling county funds by adopting a resolution setting forth the amount of the fund. Certified copies of the resolution shall be transmitted to the county auditor and to each county officer or administrative head of a county department ~~or judicial district~~ who has such fund.

Comment. Section 29370 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

Gov’t Code § 29370.1 (amended). County auditor

SEC. _____. Section 29370.1 of the Government Code is amended to read:

29370.1. (a) As an alternative to Section 29370, the board of supervisors may, by resolution, authorize the county auditor to perform the functions of the board in establishing, increasing, reducing, or discontinuing any county officers cash difference fund.

(b) The resolution adopted by the board of supervisors may set the amount of the fund. If the board of supervisors adopts the resolution, the county auditor shall do all of the following:

(a) (1) Be subject to the same requirements and limitations otherwise prescribed for the board of supervisors in this article.

(b) (2) In lieu of acting by resolution, act by signed statement having the same content otherwise prescribed in this article for resolutions.

(c) (3) Render a written report to the board of ~~supervisors~~ supervisors at the end of each fiscal year identifying the cash difference funds in existence during the fiscal year, the amount of those funds, and the officer using the fund. The board of supervisors may require the county auditor to give an account of the cash difference fund at any other time.

(d) The county auditor shall send a copy of his or her signed statement to each county officer or administrative head of a county department ~~or judicial district~~ who has the fund.

Comment. Section 29370.1 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g.,

Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

The section is also amended to make a spelling correction and insert paragraph labels.

Gov’t Code § 29371 (amended). Overage fund

SEC. _____. Section 29371 of the Government Code is amended to read:

29371. If the board elects to establish a cash difference fund, it shall by the same resolution also establish an overage fund for the use of each county officer or administrative head of a county department or ~~judicial district~~ affected.

Comment. Section 29371 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

Gov’t Code § 29372 (amended). Warrant

SEC. _____. Section 29372 of the Government Code is amended to read:

29372. Upon the adoption of the resolution, the auditor shall draw ~~his~~ a warrant in favor of the county officer or administrative head of a county department or ~~judicial district~~ in the amount set forth in the resolution, and the treasurer shall pay the warrant. The county officer or administrative head of a county department or ~~judicial district~~ shall use this fund only for cash deficits pursuant to this article.

Comment. Section 29372 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations").

The section is also amended to make it gender-neutral.

Gov't Code § 29373 (amended). Daily written report

SEC. ____ . Section 29373 of the Government Code is amended to read:

29373. Any person in any county office, or department, ~~or judicial district~~ in which a cash difference fund has been established who receives and disburses money placed in his ~~the person's~~ custody as directed by law or by official authority, shall render a written report to the county officer or administrative head of a county department ~~or judicial district~~ at the close of each business day, setting forth the exact sum of any cash deficit or overage in his ~~the person's~~ account for that day. Failure to report any cash deficit or overage at the close of the business day in which it occurred is a violation of this article.

Comment. Section 29373 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

The section is also amended to make it gender-neutral.

Gov’t Code § 29374 (amended). Cash deficit reimbursement

SEC. ____. Section 29374 of the Government Code is amended to read:

29374. If a cash deficit is reported to the county officer or administrative head of a county department, ~~or judicial district, he~~ the county officer or administrative head shall immediately reimburse the cash charged to the person in the amount of the cash deficit. The reimbursement shall not exceed the amount in the cash difference fund unless that fund is replenished by the board of supervisors, and in any event is not to exceed the sum appropriated by the board.

Comment. Section 29374 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

The section is also amended to make stylistic revisions.

Gov't Code § 29375 (amended). Deposit of overage

SEC. ____ . Section 29375 of the Government Code is amended to read:

29375. If an overage is reported to the county officer or administrative head of a county department ~~or judicial district~~ involved, ~~he~~ the county officer or administrative head shall immediately deposit the overage in the overage fund in the county treasury.

Comment. Section 29375 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations").

The section is also amended to make it gender-neutral.

Gov't Code § 29376 (amended). Account of cash difference fund

SEC. ____ . Section 29376 of the Government Code is amended to read:

29376. Each county officer or administrative head of a county department ~~or judicial district~~ having a cash difference fund shall upon demand of the auditor or the board of supervisors give an account of the cash difference fund.

Comment. Section 29376 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory

reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

Gov’t Code § 29377 (amended). Application to replenish cash difference fund

SEC. _____. Section 29377 of the Government Code is amended to read:

29377. If the cash difference fund becomes exhausted, the county officer or administrative head of a county department ~~or judicial district~~ involved may make a written application to the board of supervisors to have it replenished. In ~~his~~ the application, ~~he~~ the county officer or administrative head shall itemize each cash deficit as to amount, date of occurrence and the name of the person whose account was reimbursed from the fund.

Comment. Section 29377 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

The section is also amended to make stylistic revisions.

Gov't Code § 29379 (amended). Discontinuance of cash difference fund

SEC. _____. Section 29379 of the Government Code is amended to read:

29379. The board may at any time discontinue the cash difference fund. If the cash difference fund is discontinued, the county officer or administrative head of a county department ~~or judicial district~~ shall immediately give an account thereof and deposit any balance in that fund ~~in~~ into the county general fund.

Comment. Section 29379 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to "judicial district" generally meant "municipal court district").

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of "court operations").

The section is also amended to make a stylistic revision.

Gov't Code § 29603 (amended). Payments to jurors and witnesses

SEC. _____. Section 29603 of the Government Code is amended to read:

29603. The sums required by law to be paid to ~~the grand and trial~~ jurors and witnesses in criminal cases tried in a superior ~~or municipal~~ court, other than expert witnesses appointed by the court for the court's needs pursuant to Section 730 of the Evidence Code, are county charges.

Comment. Section 29603 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Gov't Code §§ 77000-77655). See Sections 77003 ("court

operations” defined), 77200 (state funding of “court operations”); see also Cal. R. Ct. 10.810(d), Functions 2 (jury services) & 10 (“court-appointed expert witness fees (for the court’s needs)”). The reference to grand jurors is retained because grand jury expenses and operations are not court operations. See Section 77003(a)(7); see also Cal. R. Ct. 10.810(b)(6) & (d), Function 2 (civil and criminal grand jury costs unallowable). Likewise, the fees for a lay witness, or an expert who is not court-appointed, are not a court operation and thus remain a county charge. See Section 77003; see also Cal. R. Ct. 10.810.

The section is also amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

Gov’t Code § 31116 (amended). Travel expenses of county applicants

SEC. ____. Section 31116 of the Government Code is amended to read:

31116. For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, a county may expend county funds to pay reasonable travel expenses of applicants for county ~~or judicial district~~ employment in traveling, from any point within the continental United States, to and from the place or places at which the applicants are to be examined or interviewed. Such payments shall be authorized only upon a determination by the board of supervisors that the expenditure is necessary to recruit qualified persons needed by the county ~~or judicial district~~.

Comment. Section 31116 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution. See Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm’n Reports 51, 70 (1998) (explaining that before trial court unification, statutory reference to “judicial district” generally meant “municipal court district”).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court employees).

(3) Enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state funding of “court operations”).

Gov’t Code § 68083 (added). Collection of fees

SEC. _____. Section 68083 is added to the Government Code, to read:

68083. Each salaried officer of a superior court shall charge, collect, and promptly deposit the fees allowed in each case, as provided by law. No salaried officer who collects fees shall be required to accept coin in payment of those fees.

Comment. Section 68083 continues material formerly located in Section 24350, with revisions to reflect (1) unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution, and (2) enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77003 (“court operations” defined), 77200 (state funding of “court operations”).

The state and certain other governmental entities are generally exempt from payment of court fees. See Gov’t Code § 70633(c) (“[n]o fee shall be charged by the clerk for service to any municipality or county in the state, to the state government, nor to the United States of America or any of its officers acting in his or her official capacity,” subject to narrow exceptions provided in Section 70633(b)); see also Gov’t Code § 6103 (prohibiting state and its officers, and other specified public entities and officers, from paying fees for filing document or performance of official service, with specified exceptions).

Gov’t Code § 68083.5 (added). Collection of money payable into county treasury

SEC. _____. Section 68083.5 is added to the Government Code, to read:

68083.5. Each officer of a superior court authorized to collect money shall pay into the county treasury all money collected by that officer, or under the officer’s control, that is payable into the treasury in a timely manner, and shall remit fee, fine, and forfeiture data within 35 days after the end of

the month in which they are collected to the county auditor and treasurer in the form they require. No officer who collects money as described in this section shall be required to accept payment in coin. If the county auditor finds that an officer of the court has failed to comply with the requirements for payment of moneys pursuant to this section or Section 68101, which directly results in the assessment of a financial penalty pursuant to Section 68085, the superior court that failed to comply shall reimburse the county general fund in an amount equal to the actual penalty. With the approval of the treasurer as provided in Section 27080.1, each depositing officer may deposit directly into the treasurer's active account all money payable into the county treasury. On and after January 1, 2006, this section does not apply to money collected under Chapter 5.8 (commencing with Section 70600) of Title 8 or fees and fines to which Section 68085.1 applies.

Comment. Section 68083.5 continues material formerly located in Section 24353 relating to an officer of the superior court. That material is relocated from Title 3 ("Government of Counties") to this title ("The Organization and Government of Courts") because an officer of the superior court is no longer an officer of the county. See the Trial Court Employment Protection and Governance Act, 2000 Cal. Stat. ch. 1010 (codified as Sections 71600-71675). See, e.g., Sections 71601(*I*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

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

SEC. _____. Section 68098 of the Government Code is amended to read:

68098. Witness' fees in criminal cases in superior ~~and municipal~~ courts, other than fees for expert witnesses appointed by the court for the court's needs pursuant to Section 730 of the Evidence Code, are charges against the same funds as grand jurors' fees in such criminal cases.

Comment. Section 68098 is amended to reflect enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see

generally Sections 77000-77655). See Sections 77003 (“court operations” defined), 77200 (state funding of “court operations”); see also Cal. R. Ct. 10.810(b)(6) & (d), Functions 2 (jury services) & 10 (“court-appointed expert witness fees (for the court’s needs”).

The section is also amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

Section 68098 is further amended to make a stylistic revision.
