STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Statutes Made Obsolete by Trial Court Restructuring: Part 1

March 2002

California Law Revision Commission
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SUMMARY OF RECOMMENDATION

In the late 1990's, California's trial court system was substantially restructured through state funding of trial court operations, trial court unification, and reforms relating to trial court employment. As a result, hundreds of statutes are now obsolete. The Law Revision Commission proposes amendment or repeal of obsolete provisions to reflect the restructuring of the trial court system.

In addition to the numerous revisions proposed in this recommendation, other statutes require amendment or repeal but are not included here because stakeholders have not yet reached agreement on key issues, further research is necessary in light of the complexity of the law, or additional time is required to prepare appropriate revisions due to the sheer volume of statutory material involved. The Commission will continue its review of statutes made obsolete by trial court restructuring with the objective of recommending further cleanup of the statutes from time to time.

This recommendation was prepared pursuant to Government Code Section 71674.

STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING: PART 1

INTRODUCTION

The Legislature has directed the Law Revision Commission to recommend the repeal of statutes made obsolete by trial court funding reform, trial court unification, and trial court employment reform.[1] The recommendation was due January 1, 2002.[2]

The Commission submits this recommendation in fulfillment of the legislative directive. In addition to the numerous revisions proposed, many other statutes require amendment or repeal, but are not included in this recommendation because (1) stakeholders have not yet reached agreement on key issues, (2) further research is required due to the complexity of the law, or (3) additional time is required to prepare appropriate revisions due to the sheer volume of statutory material involved.

For these reasons, the Commission recommends that the January 1, 2002, deadline be removed from the statute. Elimination of the deadline will allow the Commission to continue its work in this area and recommend further cleanup of the statutes from time to time.

METHODOLOGY

The body of existing statutory material affected by trial court restructuring is immense. Nearly every provision of Title 8 of the Government Code, relating to the organization and government of the courts, requires review and evaluation. That title alone occupies several volumes of the annotated codes, comprising more than 2,000 statute sections.[3] Trial court restructuring also affects provisions in other parts of the Government Code and in other codes, particularly the Code of Civil Procedure and Penal Code.

To handle this massive amount of statutory material, the Commission has dealt with it thematically, by systematically examining different classes of provisions: statutes dealing with the number of judges, statutes dealing with court clerks, statutes dealing with official reporters, statutes unique to a specific county, and the like. The Commission prepared preliminary drafts relating to each topic and sent

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1. Gov't Code § 71674. The directive is part of the Trial Court Employment Protection and Governance Act, operative January 1, 2001.

2. Legislation was introduced on January 7, 2002 (ACA 15), and January 24, 2002 (SB 1316), to implement the Commission's tentative recommendations.

3. The reasons for this are historical. The California Constitution provides that the Legislature must prescribe the number, qualifications, and compensation of municipal court judges, officers, and employees, as well as provide for the officers and employees of the superior courts. Cal. Const. art. VI, §§ 4, 5.

them to interested persons and organizations for review and comment. Drafts were circulated to courts, counties, labor unions, professional associations, the Administrative Office of the Courts, and state bar committees, among others.

After reviewing comments and making appropriate adjustments in the drafts, the Commission assembled all of the material into a comprehensive document — the Tentative Recommendation on *Statutes Made Obsolete by Trial Court Restructuring* (November 2001). The tentative recommendation was publicized and circulated for comment before the Commission adopted this final recommendation.

The recommended statutory changes are proposed for enactment during 2002, to become operative on January 1, 2003. The proposed constitutional revisions would become operative on approval by the voters.

BACKGROUND

The restructuring of the trial court system during the late 1990's was monumental. It included (1) the state's assumption of responsibility for trial court funding, (2) unification of the justice courts, municipal courts, and superior courts, and (3) transfer of control of trial court employment to the courts.

These enactments override an extensive statutory structure that is now at odds with the governing law. To date, the only systematic effort to conform existing statutes to the new law is the Law Revision Commission's overhaul of the codes in 1998 to accommodate trial court unification.[4] Even that effort is incomplete, since municipal courts still existed at the time.[5] County-specific statutes dealing with individual municipal courts in the various counties were not addressed at that time, pending resolution of employment issues. Many statutes still reflect the dual court system.

Trial Court Funding

The major event in trial court funding reform was enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997.[6] That legislation consolidated funding of the trial courts at the state level.

Under the new system, the state has assumed full responsibility for funding trial court operations. The Judicial Council annually submits a trial court budget to the Governor for inclusion in the state budget, which is intended to meet the needs of all trial courts. The Judicial Council administers the budgetary allotment by making payments to the courts.

The counties annually make a contribution to the state, based on fiscal year 1994-95 levels, with a mechanism for adjustment to correct inequities. The coun-

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4. *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51 (1998). See 1998 Cal. Stat. ch. 931; see also 1999 Cal. Stat. ch. 344.

5. Unification proceeded on a county-by-county basis. The last remaining municipal courts were eliminated on February 8, 2001, when the courts in Kings County unified.

6. 1997 Cal. Stat. ch. 850. See generally Gov't Code §§ 77000-77655.

ties are required to continue funding court facilities and court-related costs that are not considered part of court operations, such as indigent criminal defense, pretrial release, and probation costs.

The funding reform also contemplates a decentralized system of trial court management. The Judicial Council is required to adopt rules of court to promote such a system.

To the extent that existing statutes are inconsistent with this scheme, they need to be reformed. For example, some statutes still vest control over court operations in county boards of supervisors. These statutes are inconsistent with the concepts of state control of trial court funding and court control of court operations. However, county control of some of these matters may still be appropriate. It is necessary to treat the issues on a section-by-section basis.

Trial Court Unification

The California Constitution was amended in 1998 to permit the municipal and superior courts in each county to unify.[7] As of February 8, 2001, the courts in all of California's 58 counties have unified.

Although many of the key statutes have been revised to accommodate trial court unification, several significant chores remain in the wake of unification. Now that all courts have unified, the general statutes should be cleared of remnants relating to the former municipal courts. In addition, various county-specific statutes relating to individual municipal courts must be repealed or recast. To a large extent, this involves eliminating superseded employment statutes. Finally, civil and criminal procedures and appellate processes must be reviewed to ensure their proper functioning in a unified court environment. The Commission is conducting this review as a project separate from the cleanup of obsolete provisions.

Trial Court Employment Protection and Governance

The Trial Court Employment Protection and Governance Act was adopted effective January 1, 2001.[8] It establishes the basis for a new personnel system for employees of California's trial courts. Under the act, trial court employees become employees of the court, instead of the state or county. Employees may be considered county employees for the purpose of certain benefits. The local court is given control over budget and personnel decisions.

The act maintains employees' current classifications and salaries, and current levels of benefits. It provides discipline for cause and due process hearing procedures as part of the employment protection system. It establishes a personnel system based on merit, for purposes of employment selection and advancement. It does not alter the means by which memoranda of understanding and personnel policies, procedures, and plans are modified.

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7. Cal. Const. art. VI, § 5(e).
8. See Gov't Code §§ 71600-71675.

More than half of Title 8 of the Government Code (organization and governance of courts) is devoted to detailed statutes governing employment in former municipal courts. These statutes have been rendered largely obsolete by the enactment of trial court funding, unification, and employment reforms. Most of them are ripe for repeal.

SPECIFIC ISSUES

Due to the volume of obsolete statutory material proposed for amendment or repeal, it is impractical to detail here every type of revision being proposed. For each section being revised, the Commission has prepared a Comment citing relevant constitutional or statutory provisions relating to trial court restructuring. The general approach proposed for certain types of statutes, and the proposed resolution of key substantive issues, are described below.

California Constitution

A number of provisions of the California Constitution reflect a trial court structure that includes municipal courts.[9] The constitutional provisions should be amended to reflect unification of the trial courts.

The proposed legislation includes a deferred operative date for repeal of Article VI, Section 23, of the Constitution. That provision contains transitional provisions for trial court unification. Most of the transitional provisions have little effect now that unification is complete, and in any event there remain statutory transitional provisions that are more comprehensive.[10] However, to ensure that former municipal court judges who became superior court judges through unification continue to be qualified to serve,[11] the transitional provision would remain in effect until the January 1 that falls five years after the last court unified (i.e., January 1, 2007).

Judges

The California Constitution requires the Legislature to prescribe the number of judges in each county.[12] The Legislature has prescribed the number of judges in various counties,[13] but the statutes are incorrect as a result of unification of the courts.[14]

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9. See Cal. Const. art. VI, §§ 1 (judicial power), 5 (municipal court), 6 (Judicial Council), 8 (Commission on Judicial Performance), 10 (original jurisdiction), 15 (qualifications of judges), 16 (election of judges), and 23 (transitional provision).

10. See Gov't Code §§ 70200-70218.

11. Article VI, Section 15, of the California Constitution provides a five-year bar membership or judicial service requirement for municipal court judges and a 10-year bar membership or judicial service requirement for superior court judges.

12. Cal. Const. art. VI, §§ 4, 5.

13. Gov't Code §§ 69580-69615 (superior court), 72600-74997 (municipal court).

14. On unification of the superior and municipal courts in a county, the previously selected municipal court judges become superior court judges. Cal. Const. art. VI, § 23(b); Gov't Code § 70211(a). Until

As part of this project, the Commission recommends that the statutes be corrected to conform to the actual number of superior court judgeships in each county after unification with the municipal courts. The corresponding municipal court statutes should be repealed.

The proposed legislation would preserve provisions governing the timing of elections of municipal court judges,[15] subject to a sunset date of January 1, 2008. Although previously selected municipal court judges became superior court judges upon unification, the terms of office of some of these judges are still governed by the municipal court statutes.[16] Absent unusual circumstances, this transitional situation should end by January 2007. Setting the sunset date to take effect on January 1, 2008, would allow time to repeal the sunset provision should any unusual circumstance occur (e.g., election of a successor who fails to take office).

Many statutes refer to "the judge" or judges of the superior court, to the presiding judge or "senior judge" of the court, or to the presiding judge or "sole judge" of the court.[17] Every superior court now has a presiding judge[18] and, as a result of unification, every superior court has at least two judgeships. The proposed legislation would clean up language reflective of an earlier era.[19]

Subordinate Judicial Officers

The California Constitution authorizes the Legislature to provide for subordinate judicial officers.[20] Subordinate judicial officers include commissioners and referees. The Legislature has provided for subordinate judicial officers through a number of statutes.[21]

The Trial Court Employment Protection and Governance Act has established far-reaching provisions relating to subordinate judicial officers that eclipse much of existing law relating to authorization and appointment of subordinate judicial officers.[22] In enacting this statute the Legislature has exercised its constitutional

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revised by statute, the total number of judgeships in the unified superior court equals the previously authorized number of judgeships in the municipal court and superior court combined. Gov't Code § 70211(a).

15. Gov't Code §§ 71141, 71143, 71144, 71145, 71145.1, 71180.

16. Gov't Code § 70211(b).

17. See, e.g., Code Civ. Proc. § 404.9; Gov't Code §§ 23396, 68115, 68546, 69753, 71341, 72190, 72190.1, 72190.2, 72196; Penal Code §§ 924.4, 6031.1; Welf. & Inst. Code § 1737.

18. Gov't Code §§ 69508, 69508.5 (presiding judge).

19. Code of Civil Procedure Section 75 provides that in a one-judge county, the court may provide by rule that where the judge is absent on assignment, a noncontested matter may be deemed submitted on filing a statement of submission with the clerk. The proposed legislation would expand this provision to permit a statement of submission whenever all judges are absent from the county, regardless of the number of judges in a county or the reason for the judges' unavailability.

20. Cal. Const. art. VI, § 22 ("The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties.").

21. See, e.g., Gov't Code §§ 70140-70148 (court commissioners).

22. Gov't Code § 71622. A temporary judge is considered a subordinate judicial officer for purposes of the Trial Court Employment Protection and Governance Act. See Gov't Code § 71601(i).

authority to "provide for" appointment of subordinate judicial officers by delegating the matter to the courts, subject to the control of the Judicial Council. This renders obsolete much of the existing statutory structure relating to subordinate judicial officers, and it should be repealed.[23]

Court Clerks

Many statutes relating to trial court operations involve the county clerk. These statutes date from an era when the county clerk was ex officio clerk of the superior court.[24]

These statutes are now obsolete. Pursuant to statutory authority,[25] every superior court now has an executive or administrative officer who serves as court clerk. Moreover, the shift of trial court funding from the county to the state[26] renders inappropriate statutes that impose court-related duties on the county clerk. The proposed legislation revises statutes designating the "county clerk" as the relevant officer for court-related functions. These provisions would refer instead to the "court clerk." The statutes will operate satisfactorily regardless of whether the particular function is performed by the county clerk, court executive officer, or another court appointee.[27]

Official Reporters

The Legislature has enacted an extensive body of law governing official reporters and official reporters pro tempore in each county. Issues covered include appointment, tenure, compensation, benefits, and the like.[28] The statutes are remarkably detailed and diverse.

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23. Many general and county-specific statutes limit or prohibit the practice of law by subordinate judicial officers. See, e.g., Gov't Code §§ 70141.1 (superior court commissioner in El Dorado County), 70142 (superior court commissioners), 72190 (municipal court commissioners), 72450 (municipal court traffic trial commissioners), 74703(e) (temporary municipal court traffic referees in Sonoma County), 74925 (municipal court commissioner in Tulare County), 74982(d) (part-time municipal court commissioners in Shasta County). These provisions would be replaced by a general prohibition on the practice of law by subordinate judicial officers appointed under the authority of Article VI, Section 22, except to the extent permitted by Judicial Council rules. See proposed Gov't Code § 69917 (practice of law by subordinate judicial officers).

Likewise, the general authority in Government Code Section 72190 to hire court commissioners as retired annuitants would be retained, thus permitting the repeal of duplicative county-specific provisions. See Gov't Code §§ 70141.10 (Marin County), 70142 (Los Angeles County), 74908 (Ventura County).

24. See, e.g., former Cal. Const. art. VI, § 4.

25. Gov't Code §§ 26800, 69898, 71620(b).

26. See Gov't Code § 77200.

27. The proposed law would make clear the authority of the court to appoint a deputy court clerk who has the authority of a court clerk, just as a deputy county clerk has the authority of a county clerk. See proposed Gov't Code § 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court) and the proposed revision of Gov't Code § 71620 (trial court personnel).

28. See, e.g., Gov't Code §§ 69941-69959 (general provisions governing superior court reporters throughout state).

To a large extent these provisions are superseded by the Trial Court Employment Protection and Governance Act. For example, statutes providing that superior court or municipal court official reporters hold office "during the pleasure" of the appointing court, as well as municipal court statutes providing civil service protections to official reporters, are generally superseded by the employment protection provisions of the new law.[29]

It should be noted, however, that not all official reporters are court employees, particularly those appointed as official reporters pro tempore. Official reporters who are not court employees may be subject to different governing principles than those who are employed by the court.

Moreover, some provisions governing official reporters cannot necessarily be considered obsolete. General statutes dealing with fees and allocation of costs, for example, appear to reflect deliberate policy choices regarding not only compensation of court reporters, but also the costs of court reporting to the court and to the parties.[30] These provisions should be preserved.[31]

Several issues relating to official reporters have been the subject of extended debate. In particular, it is unsettled whether the basic compensation and benefit-setting mechanism of the Trial Court Employment Protection and Governance Act supersedes specific statutes relating to compensation of official reporters in individual counties. The individual county statutes are obsolete and in need of revision, if not outright repeal, since most of them still appear to involve county boards of supervisors in the bargaining process. This scheme is no longer appropriate for court employees under state funding and court control. To permit repeal of obsolete statutes concerning official reporter compensation, the Commission plans to recommend appropriate revision of the statutes once the stakeholders have resolved the underlying substantive and fiscal issues.

The issue of electronic reporting is also highly politicized. The proposed legislation seeks to avoid disturbing the status quo on this matter.[32]

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29. Compare, e.g., Gov't Code § 69941 ("at pleasure" tenure of superior court reporters), with Gov't Code §§ 71620 (trial court personnel), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

30. See, e.g., Gov't Code § 69950 (transcription fee). The proposed legislation would also preserve county-specific statutory provisions governing a reporters' salary fund inasmuch as the fund is still in use in the Los Angeles County Superior Court. See proposed Gov't Code §§ 72708-72713.

31. Some provisions relating to court reporters should be simplified and clarified without substantive change, as proposed in the Commission's Recommendation on *Cases in Which Court Reporter Is Required*, 31 Cal. L. Revision Comm'n Reports 223 (2001).

32. For example, the proposed legislation would preserve the provision of Government Code Section 70141.11 (court commissioners in Contra Costa County) to the effect that any court-reporting functions for the commissioner may be by electronic or mechanical means and devices. Similarly, the substance of Government Code Section 72194.5 authorizing electronic recording in certain limited civil cases, misdemeanor or infraction cases is continued in proposed Government Code Section 69957.

Sheriffs and Marshals

Historically, sheriffs, marshals, and constables each served a different trial court. Sheriffs were associated with the superior court, marshals with the municipal court, and constables with the justice court. Each of these officers has noncourt, as well as court-related, functions. In the aftermath of trial court funding reform, the courts contract directly for the provision of court security services.[33]

Consolidation of sheriff and marshal operations has been an ongoing process.[34] In most counties, the sheriff has assumed operations formerly performed by the marshal. In four counties, the marshal's office currently performs services for the superior court.[35] The consolidation statutes may continue to serve functions in some counties to the extent that they guarantee continuing rights of former marshal personnel. The proposed legislation accommodates this situation by generally preserving the existing consolidation statutes, but adding a 15-year sunset clause to each of them.[36]

County-Specific Municipal Court Statutes

More than half of Title 8 of the Government Code (Organization and Government of Courts) — in excess of 1,000 sections — is devoted to details of structure and employment in the municipal courts in various judicial districts. That voluminous legislation is the result of the constitutional requirement that the Legislature prescribe the number, qualifications, and compensation of judges, officers, and employees of the municipal courts.[37] With unification of the trial courts in every county, and with the elimination of the municipal courts on unification, these statutes are now largely obsolete.[38]

The transitional provisions for trial court unification make clear that, pending further legislative action, municipal court personnel become superior court personnel. The transitional provisions also preserve the salaries, benefits, and employment rights of municipal court personnel.[39]

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33. Gov't Code § 77212.5 (contracts for court security services). This provision is limited to courts for which the sheriff provides security services as required by law. Trial courts that employ marshals are not required to hire sheriffs under this section, nor are they required to enter into agreements with sheriffs.

34. See, e.g., Gov't Code §§ 26625-26625.15 (Contra Costa County), 26630-26637 (Ventura County), 26638.1-26638.11 (Sacramento County), 26639-26639.3 (Los Angeles County), 26639.5-26639.6 (Solano County), 72110 (Riverside County), 72114.2 (San Diego County), 72115 (San Bernardino County), 72116 (Shasta County).

35. Merced, San Benito, Shasta, and Trinity Counties.

36. The proposed legislation recognizes a few variants to accommodate circumstances in particular counties. For example, the sunset clause in San Diego County would be five years; there would be no sunset clause for Contra Costa, Los Angeles, and Shasta Counties; the Orange County statute would be repealed outright.

37. Cal. Const. art. VI, § 5(c).

38. See Cal. Const. art. VI, § 5(e). Statutes governing unification prevail over contrary county-specific statutes relating to the municipal courts. Gov't Code § 70215.

39. See Cal. Const. art. VI, § 23; Gov't Code §§ 70210-70218.

The Legislature has acted to provide a statewide structure for trial court employees, officers, and other personnel.[40] The Trial Court Employment Protection and Governance Act generally supersedes comparable county-specific provisions, such as statutes governing hiring authority, classification, compensation, labor relations, employment selection and advancement, employment protection, and personnel files. The act eclipses the unification transitional provisions; most of the detailed county-specific municipal court statutes may now be repealed.

General Municipal Court Statutes

In addition to county-specific statutes governing the various municipal courts, there are statutes that refer to municipal courts generally. Now that all municipal and superior courts have unified, general statutory references to municipal courts should be corrected. The groundwork for much of the necessary revision has already been accomplished, by referring to limited civil cases and to misdemeanor and infraction cases rather than to the municipal court, and by referring to unlimited civil cases and to felony cases rather than to the superior court.[41] The conversion now should be completed throughout the codes.[42]

County-Specific Superior Court Statutes

Although the Legislature is not constitutionally obligated to enact detailed staffing statutes for superior courts,[43] the Legislature has enacted a number of statutes for superior courts, particularly in the larger counties.[44]

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40. See Gov't Code §§ 71600-71675 (Trial Court Employment Protection and Governance Act).

41. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51 (1998).

42. For examples of various types of corrective legislation proposed in this recommendation, see the proposed revisions of Bus. & Prof. Code § 6079.1 (judges of State Bar Court); Code Civ. Proc. §§ 84 (process), 85.1 (original jurisdiction), 116.210 (small claims division), 575 (promulgation of rules by Judicial Council), 1132 (confession of judgment).

Some municipal court references need to be retained, particularly in the retirement context, because they have continuing utility. See, e.g., Gov't Code §§ 22825.2 (vesting of retirement benefits on 10 years of state service), 26625.8 (credit for bailiff-related services in municipal court), 31640 (county service for purposes of County Employees Retirement Law); Penal Code § 190.7 (record of capital case on appeal). See also Gov't Code §§ 71042.5 (preservation of judicial districts for purpose of publication), 71042.6 (map to establish district boundaries). The Commission plans to study issues relating to publication of legal notice. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 86 (1998).

Other municipal court references are being left in place pending further analysis of how to dispose of them. For example, Code of Civil Procedure Section 395(c) raises issues relating to local venue (venue within a county) that require careful study. See discussion of "Local Venue" *infra*.

The Commission has not yet systematically searched the codes for provisions that refer to the municipal courts indirectly (e.g., provisions that refer to "the proper court," "judicial district," or "jurisdiction") or provisions that refer to "the superior court" but require adjustment to reflect unification. Once identified, these provisions will require analysis and revision.

43. See Cal. Const. art. VI, § 4 (Legislature shall "provide for" officers and employees of superior court).

44. There are approximately 160 county-specific superior court staffing statutes. See Gov't Code §§ 69890-70148. About 40 of the statutes dealing with trial court employees other than official reporters are found in Article 8 of Chapter 5 of Title 8 of the Government Code (§§ 69890-69915). Approximately 25

Generally, these statutes authorize a superior court to appoint a certain number of persons to a position at a specified salary, with the possibility of establishing additional positions only with county approval. When salaries are not set by statute, they are generally set by joint action of the court and county. Positions are typically "at will" and exempt from civil service.

The superior court staffing statutes substantially overlap and are largely inconsistent with the Trial Court Employment Protection and Governance Act. Under that act, authority to establish titles is granted exclusively to the court,[45] and salaries are set by the court.[46] Most employees are covered by the employment protection system.

The county-specific superior court statutes are thus contrary to basic principles of local court authority and state trial court funding, rendering them obsolete. The proposed legislation would repeal these obsolete provisions.[47]

Jury Venires

The Code of Civil Procedure authorizes smaller-than-countywide jury venires in counties where sessions of the superior court are held outside the county seat.[48] These venires are based on municipal court districts.

A number of statutes also prescribe special rules for superior court jury venires in physically isolated areas of specified counties.[49] These venires are based on supervisorial districts or on municipal court districts.

The proposed legislation would replace these obsolete provisions with a general statute that incorporates the various existing standards in one comprehensive section, and enables the courts to adopt governing local rules. There would be a one-year deferred operative date to enable courts to adopt local rules.[50]

Transitional Issues

A substantial amount of the statutory material made obsolete by trial court restructuring relates to employment status, rights, and benefits. Although much of this material is now obsolete, currently effective memoranda of understanding may be based on the statutes. To help assure trial court employees that repeal of obsolete statutes does not jeopardize their current rights, the proposed legislation

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statutes dealing with subordinate judicial officers are found in Article 13 of Chapter 5 of Title 8 of the Government Code (§§ 70141-70148). The remaining 95 or so statutes dealing with official reporters are contained in Articles 9 through 12.8 of Chapter 5 of Title 8 of the Government Code (§§ 69941-70139).

45. Gov't Code § 71620.

46. Gov't Code § 71623.

47. The proposed legislation would not repeal county-specific superior court statutes relating to compensation of official reporters. See discussion of "Official Reporters" *supra*.

48. Code Civ. Proc. § 198.5.

49. See, e.g., Code Civ. Proc. §§ 199-199.5 (El Dorado, Placer, Nevada, and Santa Barbara Counties).

50. See proposed revision of Code Civ. Proc. § 198.5 and proposed uncodified provisions.

includes a saving clause that continues the effect of the repealed statutes to the extent that a current employment right may be based on them.[51]

In addition, many statutes govern ongoing retirement benefits of former employees of superseded courts and offices. Because they have continuing effect, they are preserved intact, notwithstanding their apparently obsolete language.[52]

MATTERS NOT COVERED IN THIS RECOMMENDATION

Many statutes that require amendment or repeal are not included in this recommendation because stakeholders have not yet reached agreement on key issues, further research is required due to the complexity of the law, or additional time is required to prepare appropriate revisions as a consequence of the sheer volume of statutory material involved. A few of the major unresolved matters are indicated below.

Trial Court Facilities

Responsibility for trial court facilities is a complex matter. The Legislature has established a Task Force on Court Facilities.[53] The Task Force is charged with identifying needs related to trial and appellate court facilities, and options and recommendations for funding maintenance, improvements, and expansion of court facilities, including specific responsibilities of each entity of government.[54] Because the policies in this area have yet to be determined, and the Legislature has yet to act on the matter, it is not possible to clean up statutes relating to facilities at this time.

Trial Court Sessions

The numerous statutes relating to general and special court sessions require separate and careful treatment. Sessions are tied to court facilities, which have historically been county structures. Under trial court unification procedures, municipal court locations are preserved as superior court locations until superseding legislation is enacted.[55] Statutes requiring a session in a particular location are dependent in part on control of that facility; they are problematic in part because they implicate the need to maintain facilities where sessions are mandated. In addition, statutes requiring a session in a particular location may serve the function of ensuring convenient access for citizens in remote parts of a county. These provisions are generally not dealt with in this recommendation.[56]

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51. See proposed uncodified provisions.

52. See, e.g., *supra* note 42.

53. Gov't Code § 77650.

54. The Task Force issued its final report on October 1, 2001.

55. Cal. Const. art. VI, § 23(c); Gov't Code § 70212(b).

56. Technical, nonsubstantive revisions would be made in some sessions statutes. See, e.g., proposed revisions of Gov't Code §§ 69595.5 (concurrent daily sessions), 69741 (regular and special sessions). In

Local Venue

A number of statutes require venue in the particular judicial district within the county in which the cause of action arose.[57] Elimination of judicial districts through unification raises the question whether such provisions should be preserved in some manner. The Administrative Office of the Courts has organized a Joint Working Group on Sub-County Venue Issues. The Working Group has developed a proposal to address some of the local venue issues. This proposal is being reviewed by various Judicial Council committees. Because the issues require further study, it is premature to include sections that raise local venue issues in this recommendation.

Concurrent Jurisdiction

Some statutes can (but need not necessarily) be construed to confer concurrent jurisdiction on the municipal and superior courts.[58] The proper treatment of these statutes in a unified court is problematic.[59] The Commission is studying this matter to determine whether and, if appropriate, how to amend the sections so as to provide guidance regarding jurisdictional classification.

Fees and Fines Paid to County

Many statutes provide that fees and fines collected by court officers are transmitted to the county treasury for deposit in the general fund.[60] Other statutes allow the county to obtain reimbursement of expenses incurred by the court.[61] Although these funds are generated by court processes or are court-related in nature, the statutes were not revised as part of trial court funding reform. The shift of trial court funding from the counties to the state was accomplished in a comprehensive negotiated agreement that identified specific responsibilities and funding arrange-

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addition, several municipal court facilities and sessions statutes would be reenacted because they fall within larger municipal court articles proposed for repeal in their entirety. The statutes are being preserved without change, pending resolution of the underlying issues.

57. See, e.g., Code Civ. Proc. § 392 (venue for certain proceedings involving real property). See also Bus. & Prof. Code § 17511.12; Civ. Code §§ 798.61, 1780, 1812.10, 2984.4; Code Civ. Proc. §§ 393, 395, 396a, 402.5; Educ. Code § 48295; Fish & Game Code §§ 12150, 12151; Food & Agric. Code §§ 29733, 59289; Harb. & Nav. Code §§ 664, 667; Health & Safety Code §§ 108580, 110375, 111880, 111895, 117070, 117120; Lab. Code § 6436; Penal Code §§ 1034, 1035, 1038, 1039, 1462.2; Pub. Res. Code § 5560; Water Code § 310.

58. See, e.g., Code Civ. Proc. § 688.010; Food & Agric. Code §§ 25564, 29733, 43039, 59289; Health & Safety Code §§ 108580, 110375, 111880, 111895.

59. Should a party be permitted to choose whether a proceeding under such a provision is treated as a limited civil case or as an unlimited civil case, regardless of the amount in controversy? Or should the provisions be revised to follow normal procedural rules, under which the proper jurisdictional classification of a case depends on the amount in controversy or other circumstances, instead of being left to the discretion of the plaintiff?

60. See, e.g., Bus. & Prof. Code § 25762 (fines and forfeitures of bail).

61. See, e.g., Prob. Code §§ 1513.1, 1851.5 (county may assess county expenses incurred for cost of court investigation of a guardianship or conservatorship estate).

ments for each party. Revenues not specifically shifted from the county to the state continue to go to the county.

Mechanisms are in place to attempt to resolve some of these issues. A Joint Court-County Working Group on Trial Court Funding has been seeking to address the matter.[62] The Bureau of State Audits is conducting an audit of revenues governed by these statutes. It is premature to attempt to revise the statutes until these processes have been completed.

Duties of County

Generally, the proposed legislation implements the transfer of court governance from the county to the courts by proposing appropriate conforming revisions in statutes that impose court-related duties on the county. However, some of the court-related duties directly affect costs to the courts and counties.[63] Just as issues related to court-generated fees cannot yet be resolved,[64] issues related to court-generated costs cannot yet be resolved. Issues on fees and costs should be dealt with comprehensively, rather than piecemeal. The Commission has not recommended disposition of these matters, pending a consensus among the stakeholders.[65]

Representation, Defense, and Indemnification of Trial Courts and Trial Court Judges

A few statutes pertain to the representation of a superior court or superior court judge by county counsel or the district attorney.[66] These sections may have been superseded by newly-enacted Government Code Section 811.9, which requires the Judicial Council to provide for the representation, defense, and indemnification of superior courts, superior court judges, officers, and employees. The Commission is studying several issues relating to these provisions, including whether the earlier representation provisions are indeed obsolete or continue to have practical application.

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62. The Working Group has issued a report to the Joint Legislative Budget Committee on Trial Court Funding, identifying problem statutes that require further work. They are continuing negotiations over disposition of those provisions.

63. For example, the propriety of continued county liability for criminal witness fees is in question. See, e.g., Gov't Code §§ 29603 (payments to jurors and witnesses), 72232 ("Witnesses and jurors in criminal cases shall be paid by the county in the manner provided for the payment of such fees in the county or city and county in which any such municipal court is situated."); Penal Code § 1329 (court may "direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness' fees").

64. See discussion of "Fees and Fines Paid to County" *supra*.

65. An exception to this approach is the proposed treatment of Penal Code Section 4852.18. Section 4852.18 requires the county clerk to reproduce the Board of Prison Terms form of "Certificate of Rehabilitation and Pardon" and to make copies available at no charge to persons requesting them. The proposed legislation would shift this duty to the court clerk, since the county clerk no longer serves ex officio as court clerk. The corresponding cost shift to the court is minimal.

66. Gov't Code §§ 26524, 26529, 27647. See also Gov't Code § 27648 (reimbursement where judge is required to retain counsel due to conflict of interest).

Personnel Not Covered by Trial Court Employment Protection and Governance Act

Although statutes governing compensation of court employees generally are superseded by the Trial Court Employment Protection and Governance Act, this is not necessarily true of all court employees or non-employee court personnel.

Judges are not treated as "employees" for purposes of the act.[67] The proposed legislation does not address statutes governing compensation of judges,[68] pending development of proposals by the Judicial Council's Task Force on Judicial Service.[69]

In some counties, official reporters and official reporters pro tempore may be independent contractors rather than court employees. The proposed legislation does not address compensation issues for these court personnel.

Most court interpreters are independent contractors and not court employees. The employment status of court interpreters is the subject of debate among the stakeholders, is highly politicized, and is currently unresolved. The proposed legislation does not address this matter.[70]

Trial Court Coordination

A number of statutes pertain to coordination of operations of the municipal and superior courts in a county.[71] The statutes are obsolete as a consequence of trial court unification. However, the statutes are left intact temporarily, pending consideration of the possibility of applying coordination principles to intercounty superior court operations in appropriate circumstances.

CONCLUSION

Due to the size of the project, and the statutory deadline associated with it, this recommendation does not deal with all statutes made obsolete by trial court restructuring. Many statutes are not yet ripe for revision. Others are ripe for revision, but require more time and care to address. The fact that this recommendation does not address a particular statute should not be construed to indicate that the Commission has decided that the statute should be preserved over the general restructuring provisions. These statutes may be the subject of a future Commission recommendation. The proposed removal of the January 1, 2002, deadline for the Commission to report on this matter signals the Commission's intention to remain actively involved until completion of this code cleanup project.

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67. Gov't Code § 71601(m).

68. See, e.g., Gov't Code §§ 69907 (San Diego County), 69909 (Riverside County).

69. A provision governing business-related travel expenses of trial court judges was enacted in 2001. See Gov't Code § 69505.

70. The Commission has under review, but has not yet made recommendations relating to, possible revisions of statutes concerning the appointment of interpreters by the court (as opposed to the county clerk) and payment of interpreters' fees and compensation (to conform to the Trial Court Funding Act).

71. Gov't Code §§ 68112, 68112.5, 68114, 68114.5, 68114.6, 68114.7, 68114.9.

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PROPOSED LEGISLATION

CONSTITUTION

Cal. Const. Art. VI, § 1 (amended). Judicial power

SEC. ___. Section 1 of Article VI of the Constitution is amended to read:

SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, ~~and municipal courts~~, all of which are courts of record.

Comment. Section 1 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e).

Cal. Const. Art. VI, § 5 (repealed). Municipal court

SEC. ___. Section 5 of Article VI of the Constitution is repealed.

~~SEC. 5. (a) Each county shall be divided into municipal court districts as provided by statute, but a city may not be divided into more than one district. Each municipal court shall have one or more judges. Each municipal court district shall have no fewer than 40,000 residents; provided that each county shall have at least one municipal court district. The number of residents shall be determined as provided by statute.~~

~~(b) On the operative date of this subdivision, all existing justice courts shall become municipal courts, and the number, qualifications, and compensation of judges, officers, attaches, and employees shall continue until changed by the Legislature. Each judge of a part-time municipal court is deemed to have agreed to serve full time and shall be available for assignment by the Chief Justice for the balance of time necessary to comprise a full-time workload.~~

~~(c) The Legislature shall provide for the organization and prescribe the jurisdiction of municipal courts. It shall prescribe for each municipal court the number, qualifications, and compensation of judges, officers, and employees.~~

~~(d) Notwithstanding subdivision (a), any city in San Diego County may be divided into more than one municipal court district if the Legislature determines that unusual geographic conditions warrant such division.~~

~~(e) Notwithstanding subdivision (a), the municipal and superior courts shall be unified upon a majority vote of superior court judges and a majority vote of municipal court judges within the county. In those counties, there shall be only a superior court.~~

Comment. Section 5 is repealed to reflect unification of the municipal and superior courts pursuant to former subdivision (e).

This repeal deletes the requirement of subdivision (a) that each county be divided into municipal court districts as provided by statute. Statutes provide the manner of creation of judicial districts, and these statutes have continuing relevance for legal publication purposes. See Gov't Code §§ 71042.5-71042.6. These statutes are not affected by repeal of Section 5.

Cal. Const. Art. VI, § 6 (amended). Judicial Council

SEC. ___. Section 6 of Article VI of the Constitution is amended to read:

SEC. 6. The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, 3 judges of courts of appeal, ~~5~~ 10 judges of superior courts, ~~5 judges of municipal courts~~, 2 nonvoting court administrators, and such other nonvoting members as determined by the voting membership of the council, each appointed by the Chief Justice for a 3-year term pursuant to procedures established by the council; 4 members of the

State Bar appointed by its governing body for 3-year terms; and one member of each house of the Legislature appointed as provided by the house. ~~Vacancies in the memberships on the Judicial Council otherwise designated for municipal court judges shall be filled by judges of the superior court in the case of appointments made when fewer than 10 counties have municipal courts.~~

Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Comment. Section 6 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e).

Cal. Const. Art. VI, § 8 (amended). Commission on Judicial Performance

SEC. ___. Section 8 of Article VI of the Constitution is amended to read:

SEC. 8. (a) The Commission on Judicial Performance consists of one judge of a court of appeal~~, one judge of a superior court, and one judge of a municipal court~~ <u>and two judges of superior courts</u>, each appointed by the Supreme Court; 2 members of the State Bar of California who have practiced law in this State for 10 years, each appointed by the Governor; and 6 citizens who are not judges, retired judges, or members of the State Bar of California, 2 of whom shall be appointed by the Governor, 2 by the Senate Committee on Rules, and 2 by the Speaker of the Assembly.

Except as provided in subdivisions (b) and (c), all terms are for 4 years. No member shall serve more than 2 4-year terms, or for more than a total of 10 years if appointed to fill a vacancy. ~~A vacancy in the membership on the Commission on Judicial Performance otherwise designated for a municipal court judge shall be filled by a judge of the superior court in the case of an appointment made when fewer than 10 counties have municipal courts.~~

(b) Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. A member whose term has expired may continue to serve until the vacancy has been filled by the appointing power. Appointing powers may appoint members who are already serving on the commission prior to March 1, 1995, to a single 2-year term, but may not appoint them to an additional term thereafter.

(c) To create staggered terms among the members of the Commission on Judicial Performance, the following members shall be appointed, as follows:

(1) Two members appointed by the Supreme Court to a term commencing March 1, 1995, shall each serve a term of 2 years and may be reappointed to one full term.

(2) One attorney appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(3) One citizen member appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(4) One member appointed by the Senate Committee on Rules to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(5) One member appointed by the Speaker of the Assembly to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(6) All other members shall be appointed to full 4-year terms commencing March 1, 1995.

Comment. Subdivision (a) of Section 8 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e).

Cal. Const. Art. VI, § 10 (amended). Original jurisdiction

SEC. ___. Section 10 of Article VI of the Constitution is amended to read:

SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in causes subject to its appellate jurisdiction.

Superior courts have original jurisdiction in all other causes ~~except those given by statute to other trial court~~s.

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

Comment. Section 10 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e). This amendment does not affect the power of the Legislature to establish divisions within the superior court, such as the small claims court or the juvenile court, or to create administrative tribunals that make adjudicative decisions, subject to judicial review.

Cal. Const. Art. VI, § 15 (amended). Qualifications of judges

SEC. ___. Section 15 of Article VI of the Constitution is amended to read:

SEC. 15. A person is ineligible to be a judge of a court of record unless for ~~5 years immediately preceding selection to a municipal court or~~ 10 years immediately preceding selection ~~to other court~~s, the person has been a member of the State Bar or served as a judge of a court of record in this State. ~~A judge eligible for municipal court service may be assigned by the Chief Justice to serve on any court~~.

Comment. Section 15 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e).

Cal. Const. Art. VI, § 16 (amended). Election of judges

SEC. ___. Section 16 of Article VI of the Constitution is amended to read:

SEC. 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their election, except that a judge elected to an unexpired term serves the

remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) ~~(1) In counties in which there is no municipal court, judges~~ Judges of superior courts shall be elected in their counties at general elections except as otherwise necessary to meet the requirements of federal law. In the latter case the Legislature, by two-thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d), or by any other arrangement. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

~~(2) In counties in which there is one or more municipal court districts, judges of superior and municipal courts shall be elected in their counties or districts at general elections. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.~~

(c) Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) Within 30 days before August 16 preceding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.

Comment. Subdivision (b) of Section 16 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e).

Cal. Const. Art. VI, § 23 (amended). Transitional provision

SEC. ___. Section 23 of Article VI of the Constitution is amended to read:

SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to Section 16 of Article I, approved at the June 2, 1998, primary election is to permit the Legislature to provide for the abolition of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as

a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.

(c) Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:

(1) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.

(2) Preexisting court locations are retained as superior court locations.

(3) Preexisting court records become records of the superior court.

(4) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(5) Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.

(6) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(7) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

(d) This section is operative until January 1, 2007, and as of that date is repealed.

Comment. Section 23 is repealed, effective January 1, 2007, to reflect completion of the process of unification of the municipal and superior courts pursuant to former Section 5(e). Statutory transitional provisions for trial court unification based on this section are more complete. See Gov't Code §§ 70200-70219.

BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 6079.1 (amended). Judges of State Bar Court

SEC. ___. Section 6079.1 of the Business and Professions Code is amended to read:

6079.1. (a) The Supreme Court shall appoint a presiding judge of the State Bar Court. In addition, five hearing judges shall be appointed, two by the Supreme Court, one by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly, to efficiently decide any and all regulatory matters pending before the Hearing Department of the State Bar Court. The presiding judge and all other judges of that department shall be appointed for a term of six years and may be reappointed for additional six-year terms. Any judge appointed under this section shall be subject to admonition, censure, removal, or retirement by the Supreme Court upon the same grounds as provided for judges of courts of record of this state.

(b) Judges of the State Bar Court appointed under this section shall not engage in the private practice of law. The State Bar Court shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. Each judge:

(1) Shall have been a member of the State Bar for at least five years.

(2) Shall not have any record of the imposition of discipline as an attorney in California or any other jurisdiction.

(3) Shall meet such other requirements as may be established by subdivision (d) of Section 12011.5 of the Government Code.

(c) Applicants for appointment or reappointment as a State Bar Court judge shall be screened by an applicant evaluation committee as directed by the Supreme Court. The committee, appointed by the Supreme Court, shall submit evaluations and recommendations to the appointing authority and the Supreme Court as provided in Rule 961 of the California Rules of Court, or as otherwise directed by the Supreme Court. The committee shall submit no fewer than three recommendations for each available position.

(d) For judges appointed pursuant to this section or Section 6086.65, the board shall fix and pay reasonable compensation and expenses and provide adequate supporting staff and facilities. Hearing judges shall be paid ~~the same salary as municipal court judges~~ 91.3225 percent of the salary of a superior court judge. The presiding judge shall be paid the same salary as a superior court judge.

(e) From among the members of the State Bar or retired judges, the Supreme Court or the board may appoint pro tempore judges to decide matters in the Hearing Department of the State Bar Court when a judge of the State Bar Court is unavailable to serve without undue delay to the proceeding. Subject to modification by the Supreme Court, the board may set the qualifications, terms, and conditions of service for pro tempore judges and may, in its discretion, compensate some or all of them out of funds appropriated by the board for this purpose.

(f) A judge or pro tempore judge appointed under this section shall hear every regulatory matter pending in the Hearing Department of the State Bar Court as to which the taking of testimony or offering of evidence at trial has not commenced, and when so assigned, shall sit as the sole adjudicator, except for rulings that are to be made by the presiding judge of the State Bar Court or referees of other departments of the State Bar Court.

(g) Any judge or pro tempore judge of the State Bar Court as well as any employee of the State Bar assigned to the State Bar Court shall have the same immunity that attaches to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters the immunities accorded the State Bar, its officers and employees, or any judge or referee of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not constitute a change in, but is cumulative with, existing law.

(h) Nothing in this section shall be construed to prohibit the board from appointing persons to serve without compensation to arbitrate fee disputes under Article 13 (commencing with Section 6200) of this chapter or to monitor the probation of a member of the State Bar, whether those appointed under Section 6079, as added by Chapter 1114 of the Statutes of 1986, serve in the State Bar Court or otherwise.

Comment. Subdivision (d) of Section 6079.1 is amended to convert the basis of a hearing judge's salary from that of a municipal court judge to that of a superior court judge. This change anticipates that municipal court judge salaries will not be maintained after abolition of the municipal courts through unification. A municipal court judge's salary is approximately 91.3225 percent of a superior court judge's salary. See former subdivision (b) of Gov't Code § 68202 (1984 Cal. Stat. ch. 1758, § 3); see also Gov't Code § 68203.

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

SEC. ___. Section 6152 of the Business and Professions Code is amended to read:

6152. (a) It is unlawful for:

(1) Any person, in an individual capacity or in a capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any attorneys or to solicit any business for any attorneys in and about the state

prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, ~~municipal courts,~~ superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.

(2) Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).

(b) A general release from a liability claim obtained from any person during the period of the first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a result of the injury alleged to have given rise to the claim and primarily for treatment of the injury, is presumed fraudulent if the release is executed within 15 days after the commencement of confinement or prior to release from confinement, whichever occurs first.

(c) Nothing in this section shall be construed to prevent the recommendation of professional employment where that recommendation is not prohibited by the Rules of Professional Conduct of the State Bar of California.

(d) Nothing in this section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether those persons are in custody or otherwise.

Comment. Subdivision (a) of Section 6152 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 6302.5 of the Business and Professions Code is amended to read:

6302.5. (a) Notwithstanding any other provision of law, in Los Angeles County appointments made by judges of the superior court ~~or municipal court~~ shall be for a term of four years, and appointments made by the board of supervisors of the county shall be for a term of two years.

~~Trustees who are incumbents on the effective date of this section shall be considered to have started their terms on the effective date of this section.~~

~~At the first regular meeting following the effective date of this section, the members appointed by the judiciary shall classify themselves by lot so that three members shall serve for four years, and two members for two years. Thereafter, the term of office of each member so appointed shall be four years.~~

~~At the first regular meeting following the effective date of this section, the members appointed by the board of supervisors shall classify themselves by lot so that one member shall serve for two years, and one member for one year. Thereafter the term of office of each member so appointed shall be two years.~~

(b) The terms of no more than three judge-appointed members shall expire in the same year.

(c) The term of one member appointed by the board of supervisors shall expire each year.

Comment. Section 6302.5 is amended to reflect unification of the municipal and superior courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution, effective January 22, 2000.

The section is also amended to delete obsolete language regarding the manner of establishing a system of staggered terms.

Bus. & Prof. Code § 6324 (amended). Additions to law library fund

SEC. ___. Section 6324 of the Business and Professions Code is amended to read:

6324. The board of supervisors of any county may set apart from the fees collected by the ~~county~~ clerk of the court, sums not exceeding one thousand two hundred dollars ($1,200) in any one fiscal year, to be paid by the ~~county~~ clerk into the law library fund in addition to the moneys otherwise provided to be deposited in that fund by law. The board of supervisors may also appropriate from the county treasury for law library purposes such additional sums as may in their discretion appear proper. When so paid into the law library fund, such sums shall constitute a part of the fund and be used for the same purposes.

Comment. Section 6324 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

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

SEC. ___. Section 6341 of the Business and Professions Code is amended to read:

6341. Any board of law library trustees may establish and maintain a branch of the law library in any city in the county, other than the county seat, in which a session of the superior court ~~or of a municipal court~~ is held~~, or in which a municipal court has been authorized by statute but has not yet begun to operate~~. In any city constituting the county seat, any board of law library trustees may establish and maintain a branch of the law library at any location therein where four or more judges ~~of the municipal court, or~~ of the superior court ~~in a county in which there is no municipal court~~, are designated to hold sessions more than 10 miles distant from the principal office of the court. In any city and county any board of law library trustees may establish and maintain branches of the law library. A branch is in all respects a part of the law library and is governed accordingly.

Comment. Section 6341 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Bus. & Prof. Code § 6365 (repealed). Discontinuance of law library

SEC. ___. Section 6365 of the Business and Professions Code is repealed.

~~6365. Whenever the board of supervisors in any county in this State in which there is but one judge of the superior court, which board shall have adopted the provisions of this chapter and established a law library, desire to discontinue such law library, they shall by ordinance declare their intention so to do, and shall provide in such ordinance that the books already in the library shall be transferred to and kept in the chambers of the judge of the superior court of such county. All moneys on hand in the law library fund of such county shall be by the same ordinance transferred to the school fund of such county, and the office of member of the board of law library trustees of such law library shall be abolished. After such an ordinance takes effect, the county clerk of such county shall not collect the fees and costs provided for the law library.~~

Comment. Section 6365 is repealed as obsolete. Every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges).

Bus. & Prof. Code § 6405 (amended). Bond of legal document assistant or unlawful detainer assistant

SEC. ___. Section 6405 of the Business and Professions Code is amended to read:

6405. (a)(1) An application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000). An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) only if the partnership or corporation has not posted a bond of twenty-five thousand dollars ($25,000) as required by this subdivision. An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(3) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars ($7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars ($25,000) in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(h) The bond required by this section shall be in favor of the State of California for the benefit of any person who is damaged as a result of the violation of this chapter or by the fraud, dishonesty, or incompetency of an individual, partnership, or corporation registered under this chapter. The bond required by this section shall also indicate the name of the county in which it will be filed.

Comment. Subdivision (g) of Section 6405 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Bus. & Prof. Code § 22391 (amended). Deposit in lieu of bond of invention developer

SEC. ___. Section 22391 of the Business and Professions Code is amended to read:

22391. (a) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 22390.

(b) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit account has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(d) When the Secretary of State approves the first claim against a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit account.

(e) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to return funds received from the deposit for the benefit of other claimants.

(f) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the invention developer, other than as to an amount no longer needed or required for the purpose of this chapter which would otherwise be returned to the invention developer by the Secretary of State.

(g) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an invention developer or has filed a bond pursuant to Section 22389, provided that there are no outstanding claims against the deposit. The written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an invention developer or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notification to the assignor at the address

indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit.

(h) This section shall apply to all deposits retained by the Secretary of State.

(i) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years specified in subdivision (g) to resolve outstanding claims against the deposit.

Comment. Subdivision (i) of Section 22391 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Bus. & Prof. Code § 22455 (amended). Bond or deposit of professional photocopier

SEC. ___. Section 22455 of the Business and Professions Code is amended to read:

22455. (a) A certificate of registration shall be accompanied by a bond of five thousand dollars ($5,000) which is executed by a corporate surety qualified to do business in this state and conditioned upon compliance with the provisions of this chapter and all laws governing the transmittal of confidential documentary information under the code sections specified in Section 22450. The total aggregate liability on the bond shall be limited to five thousand dollars ($5,000). The bond may be terminated pursuant to the provisions of Section 995.440 and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure.

(1) The county clerk shall, upon filing the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registered professional photocopier. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(2) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars ($7).

(3) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for the notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(b) In lieu of the bond required by subdivision (a), a registrant may deposit five thousand dollars ($5,000) in cash with the county clerk.

(c) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to the provisions of subdivision (d) and the right of a person to recover against the bond or cash deposit under Section 22459.

(d) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

Comment. Subdivision (d) of Section 22455 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Bus. & Prof. Code § 25361 (amended). Notice of seizure and intended forfeiture proceeding

SEC. ___. Section 25361 of the Business and Professions Code is amended to read:

25361. Notice of the seizure and of the intended forfeiture proceeding shall be filed with the ~~county~~ clerk of the court and shall be served on all persons, firms, or corporations having any right, title, or interest in the alcoholic beverages or other property seized. If the owner or owners are unknown or cannot be found, notice of the seizure and intended forfeiture proceedings shall be made upon such owners by publication pursuant to Section 6061 of the Government Code in the county where the seizure was made.

Comment. Section 25361 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

CIVIL CODE

Civ. Code § 52.1 (amended). Protection of rights guaranteed by federal or state constitution

SEC. ___. Section 52.1 of the Civil Code is amended to read:

52.1. (a) If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars ($25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

(d) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement:

VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the ~~county~~ clerk of the court to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.9 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any proceeding pursuant to the Code of Civil Procedure, if it is determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars ($ 1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone is not sufficient to support an action brought pursuant to subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

Comment. Subdivision (e) of Section 52.1 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities.

See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

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

SEC. ___. Section 1181 of the Civil Code is amended to read:

1181. The proof or acknowledgment of an instrument may be made before a notary public at any place within this state, or within the county or city and county in this state in which the officer specified below was elected or appointed, before either:

(a) A clerk of a superior ~~or municipal~~ court.
(b) A county clerk.
(c) A court commissioner.
(d) A ~~judge or~~ retired judge of a municipal or justice court.
(e) A district attorney.
(f) A clerk of a board of supervisors.
(g) A city clerk.
(h) A county counsel.
(i) A city attorney.
(j) Secretary of the Senate.
(k) Chief Clerk of the Assembly.

Comment. Subdivisions (a) and (d) of Section 1181 are amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1789.24 (amended). Deposit in lieu of bond of credit services organization

SEC. ___. Section 1789.24 of the Civil Code is amended to read:

1789.24. (a) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of proceeding under Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court, together with evidence that the claimant is a person described in subdivision (b) of Section 1789.18.

(b) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(d) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to any amount remaining in the deposit.

(e) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (c) or (d) shall not be required to return funds received from the deposit for the benefit of other claimants.

(f) When a deposit has been made in lieu of a bond, as specified in subdivision (a), the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the credit services organization, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the credit services organization by the Secretary of State.

(g) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a credit services organization or has filed a bond pursuant to Section 1789.18, provided that there are no outstanding claims against the deposit. The written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a credit services organization or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit.

(h) This section shall apply to all deposits retained by the Secretary of State.

(i) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years specified in subdivision (g) to resolve outstanding claims against the deposit account.

Comment. Subdivision (i) of Section 1789.24 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1812.105 (amended). Deposit in lieu of bond of discount buying organization

SEC. ___. Section 1812.105 of the Civil Code is amended to read:

1812.105. (a) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 1812.104.

(b) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(d) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit.

(e) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions

(c) and (d) shall not be required to return funds received from the deposit for the benefit of other claimants.

(f) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the discount buying organization, other than as to an amount as no longer needed or required for the purpose of this title that would otherwise be returned to the discount buying organization by the Secretary of State.

(g) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a discount buying organization or has filed a bond pursuant to Section 1812.103, provided that there are no outstanding claims against the deposit. This written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a discount buying organization or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(h) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years specified in subdivision (g) to resolve outstanding claims against the deposit.

Comment. Subdivision (h) of Section 1812.105 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1812.503 (amended). Bond or deposit of employment agency

SEC. ___. Section 1812.503 of the Civil Code is amended to read:

1812.503. (a) Every employment agency subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be three thousand dollars ($3,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the employment agency in performance of the contract with the jobseeker, by the employment agency or its agents, representatives, or employees while acting within the scope of their employment.

(c)(1) No employment agency shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the employment agency and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any employment agency fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the employment agency shall cease to conduct any business unless and until a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of the bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a claimant has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to any amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (f) or (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the employment agency, other than as to an amount as no longer needed or required for the purpose of this title that would otherwise be returned to the employment agency by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an employment agency or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. This written notice shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an employment agency or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit account.

(*l*) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.

(m) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

Comment. Subdivision (k) of Section 1812.503 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1812.510 (amended). Bond or deposit of employment counseling service

SEC. ___. Section 1812.510 of the Civil Code is amended to read:

1812.510. (a) Every employment counseling service subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be ten thousand dollars ($10,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts ~~of~~ <u>or</u> omissions, or failure to provide the services of the employment counseling service in performance of the contract with the customer by the employment counseling service or its agents, representatives, or employees while acting within the scope of their employment.

(c)(1) No employment counseling service shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the employment counseling service and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any employment counseling service fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the employment counseling service shall cease to conduct any business unless and until a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of the bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a person has established the claim with the Secretary of State, the Secretary of State shall immediately review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all

approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit account after the expiration of the 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit account.

(h) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the employment counseling service, other than as to an amount as no longer needed or required for the purpose of this title that would otherwise be returned to the employment counseling service by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a counseling service or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a counseling service or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated in the notice, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit account.

(k) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a sufficient period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit account.

(*l*) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or the deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(m) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

Comment. Subdivision (b) of Section 1812.510 is amended to make a technical change.

Subdivision (k) is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1812.515 (amended). Bond or deposit of job listing service

SEC. ___. Section 1812.515 of the Civil Code is amended to read:

1812.515. (a) Every job listing service subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be ten thousand dollars ($10,000) for each location. A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of misrepresentation, deceit, unlawful acts of omissions, or failure to provide the services of the job listing service in performance of the contract with the jobseeker, by the job listing service or its agent, representatives, or employees while acting within the scope of their employment.

(c)(1) No job listing service shall conduct any business without having a current surety bond in the amount prescribed by this chapter and filing a copy of the bond with the Secretary of State, identifying the bond and the date of cancellation or termination.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the job listing service and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any job listing service fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the job listing service shall cease to conduct any business unless and until a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid in a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of the 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the job listing service, other than as to an amount as no longer needed or required for the purpose of this title that would otherwise be returned to the job listing service by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a job listing service or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a job listing service or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit account.

(*l*) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(m) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

Comment. Subdivision (k) of Section 1812.515 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1812.525 (amended). Bond or deposit of nurses' registry

SEC. ___. Section 1812.525 of the Civil Code is amended to read:

1812.525. (a) Every nurses' registry subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be three thousand dollars ($3,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the nurses' registry in performance of the contract with the nurse by the nurses' registry or its agents, representatives, or employees while acting within the scope of their employment.

(c)(1) No nurses' registry shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the nurses' registry and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any nurses' registry fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the nurses' registry shall cease to conduct any business unless and until a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the nurses' registry, other than as to an amount as no longer needed or required for the purpose of this title that would otherwise be returned to the nurses' registry by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a ~~nurse's~~ nurses' registry or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a ~~nurse's~~ nurses' registry or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit

for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.

(*l*) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(m) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

Comment. Subdivision (k) of Section 1812.525 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1812.600 (amended). Bond or deposit of auctioneer or auction company

SEC. ___. Section 1812.600 of the Civil Code is amended to read:

1812.600. (a) Every auctioneer and auction company shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be twenty thousand dollars ($20,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person or persons damaged by any fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the auctioneer or auction company in performance of the auction by the auctioneer or auction company or its agents, representatives, or employees while acting within the scope of their employment.

(c)(1) No auctioneer or auction company shall conduct any business without having a current surety bond in the amount prescribed by this section and without filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the auctioneer or auction company and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any auctioneer or auction company fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the auctioneer or auction company shall cease to conduct any business unless and until that time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) A deposit may be made in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure. When a deposit is made in lieu of the bond, the person asserting the claim against the deposit shall establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a claimant has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to any amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (f) or (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the auctioneer or auction company, other than as to that amount that is no longer needed or required for the purpose of this section that otherwise would be returned to the auctioneer or auction company by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an auctioneer or auction company or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an auctioneer or auction company or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated in the notice, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.

(*l*) If an auctioneer or auction company fails to perform any of the duties specifically imposed upon him or her pursuant to this title, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of one thousand dollars ($1,000), or for both enforcement and recovery.

(m) In any action to enforce these duties or to recover civil penalties, or for both enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable attorney's fees and costs, in addition to the civil penalties provided under subdivision (*l*).

(n) Notwithstanding the repeal of Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code by the act adding this chapter, any cash security in lieu of the surety bond formerly required and authorized by former Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code, shall be transferred to, and maintained by, the Secretary of State.

(*o*) The Secretary of State shall charge and collect a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.

(p) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

Comment. Subdivision (k) of Section 1812.600 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 2924j (amended). Proceeding to discharge trustee and distribute proceeds of sale under deed of trust

SEC. ___. Section 2924j of the Civil Code is amended to read:

2924j. (a) Unless an interpleader action has been filed, within 30 days of the execution of the trustee's deed resulting from a sale in which there are proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section 2924k, the trustee shall send written notice to all persons with recorded interests in the real property as of the date immediately prior to the trustee's sale who would be entitled to notice pursuant to subdivisions (b) and (c) of Section 2924b. The notice shall be sent by first-class mail in the manner provided in paragraph (1) of subdivision (c) of Section 2924b and inform each entitled person of each of the following:

(1) That there has been a trustee's sale of the described real property.

(2) That the noticed person may have a claim to all or a portion of the sale proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section 2924k.

(3) The noticed person may contact the trustee at the address provided in the notice to pursue any potential claim.

(4) That before the trustee can act, the noticed person may be required to present proof that the person holds the beneficial interest in the obligation and the security interest therefor. In the case of a promissory note secured by a deed of trust, proof that the person holds the beneficial interest may include the original promissory note and assignment of beneficial interests related thereto. The noticed person shall also submit a written claim to the trustee, executed under penalty of perjury, stating the following:

(A) The amount of the claim to the date of trustee's sale.

(B) An itemized statement of the principal, interest, and other charges.

(C) That claims must be received by the trustee at the address stated in the notice no later than 30 days after the date the trustee sends notice to the potential claimant.

(b) The trustee shall exercise due diligence to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds from those persons to whom notice was sent pursuant to subdivision (a). In the event there is no dispute as to the priority of the written claims submitted to the trustee, proceeds shall be paid within 30 days after the conclusion of the notice period. If the trustee has failed to determine the priority of written claims within 90 days following the 30-day notice period, then within 10 days thereafter the trustee shall deposit the funds with the clerk of the court pursuant to subdivision (c) or file an interpleader action pursuant to subdivision (e). Nothing in this section shall preclude any person from pursuing other remedies or claims as to surplus proceeds.

(c) If, after due diligence, the trustee is unable to determine the priority of the written claims received by the trustee to the trustee's sale surplus of multiple persons or if the trustee determines there is a conflict between potential claimants, the trustee may file a declaration of the unresolved claims and deposit with the clerk of the superior ~~or municipal court, as applicable~~, court of the county in which the sale occurred, that portion of the sales proceeds that cannot be distributed, less any fees charged by the clerk pursuant to this subdivision. The declaration shall specify the date of the trustee's sale, a description of the property, the names and addresses of all persons sent notice pursuant to subdivision (a), a statement that the trustee exercised due diligence pursuant to

subdivision (b), that the trustee provided written notice as required by subdivisions (a) and (d) and the amount of the sales proceeds deposited by the trustee with the ~~superior or municipal~~ court. Further, the trustee shall submit a copy of the trustee's sales guarantee and any information relevant to the identity, location, and priority of the potential claimants with the ~~superior or municipal~~ court and shall file proof of service of the notice required by subdivision (d) on all persons described in subdivision (a).

The clerk shall deposit the amount with the county treasurer subject to order of the ~~superior or municipal~~ court upon the application of any interested party. The clerk may charge a reasonable fee for the performance of activities pursuant to this subdivision equal to the fee for filing an interpleader action pursuant to Article 2 (commencing with Section 26820) of Division 2 of Title 3 of the Government Code. Upon deposit of that portion of the sale proceeds that cannot be distributed by due diligence, the trustee shall be discharged of further responsibility for the disbursement of sale proceeds. A deposit with the clerk of the ~~superior or municipal~~ court pursuant to this subdivision may be either for the total proceeds of the trustee's sale, less any fees charged by the clerk, if a conflict or conflicts exist with respect to the total proceeds, or that portion that cannot be distributed after due diligence, less any fees charged by the clerk.

(d) Before the trustee deposits the funds with the clerk of the court pursuant to subdivision (c), the trustee shall send written notice by first-class mail, postage prepaid, to all persons described in subdivision (a) informing them that the trustee intends to deposit the funds with the clerk of the ~~superior or municipal~~ court, ~~as applicable,~~ and that a claim for the funds must be filed with the court within 30 days from the date of the notice, providing the address of the court in which the funds were deposited, and a phone number for obtaining further information.

Within 90 days after deposit with the clerk, the court shall consider all claims filed at least 15 days before the date on which the hearing is scheduled by the court, the clerk shall serve written notice of the hearing by first-class mail on all claimants identified in the trustees' declaration at the addresses specified therein. Where the amount of the deposit is twenty-five thousand dollars ($25,000) or less, a proceeding pursuant to this section is a limited civil case. The court shall distribute the deposited funds to any and all claimants entitled thereto.

(e) Nothing in this section restricts the ability of a trustee to file an interpleader action in order to resolve a dispute about the proceeds of a trustee's sale. Once an interpleader action has been filed, thereafter the provisions of this section shall not apply.

(f) "Due diligence," for the purposes of this section means that the trustee researched the written claims submitted or other evidence of conflicts and determined that a conflict of priorities exists between two or more claimants which the trustee is unable to resolve.

(g) To the extent required by the Unclaimed Property Law, a trustee in possession of surplus proceeds not required to be deposited with the court pursuant to subdivision (b) shall comply with the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure).

(h) Prior to July 1, 2000, the Judicial Council shall adopt a form to accomplish the filing authorized by this section.

Comment. Subdivisions (c) and (d) of Section 2924j are amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Subdivision (d) is also amended to clarify the jurisdictional classification of a proceeding to distribute excess sale proceeds. This is declaratory of existing law. See Code Civ. Proc. § 85 (limited civil cases) & Comment. See also Code Civ. Proc. § 88 (unlimited civil cases).

CODE OF CIVIL PROCEDURE

Code Civ. Proc. § 17 (amended). Words and phrases

SEC. ___. Section 17 of the Code of Civil Procedure is amended to read:

17. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as a natural person; the word "county" includes "city and county"; ~~and the words "judicial district" include "city and county";~~ writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose"; signature or subscription includes mark, when the person cannot write, his or her name or her being written near it by a person who writes his or her own name as a witness; provided, that when a signature is by mark it must, in order that the same may be acknowledged or may serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witness thereto.

The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes both real and personal property;
2. The words "real property" are coextensive with lands, tenements, and hereditaments;
3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt;
4. The word "month" means a calendar month, unless otherwise expressed;
5. The word "will" includes codicil;
6. The word "writ" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer; and the word "process" a writ or summons issued in the course of judicial proceedings;
7. The word "state," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the district and territories;
8. The word "section" whenever hereinafter employed, refers to a section of this code, unless some other code or statute is expressly mentioned;
9. The word "affinity" when applied to the marriage relation, signifies the connection existing in consequence of marriage, between each of the married persons and the blood relatives of the other;
10. The word "sheriff" shall include "marshal."

Comment. Section 17 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial district). *Cf.* Gov't Code § 71042.5 (preservation of judicial districts for purpose of publication).

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

SEC. ___. Section 32.5 of the Code of Civil Procedure is amended to read:

32.5. The "jurisdictional classification" of a case means its classification as a limited civil case or ~~otherwise~~ <u>an unlimited civil case</u>.

Comment. Section 32.5 is amended to replace the reference to "otherwise" with a reference to an "unlimited civil case." See Section 88 (civil action or proceeding other than limited civil case may be referred to as unlimited civil case).

Code Civ. Proc. § 34 (repealed). Application of code provisions to trial courts

SEC. ___. Section 34 of the Code of Civil Procedure is repealed.

~~34. The provisions of this code relating to the commencement and prosecution of, and the practice, procedure, and enforcement of judgments and decrees in, actions and proceedings in trial courts, shall apply to all such courts, except where special provision is made for particular courts, or where a general provision is not applicable by reason of jurisdictional limitations.~~

Comment. Section 34 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 73e (amended). Session at location of juvenile hall

SEC. ___. Section 73e of the Code of Civil Procedure is amended to read:

73e. Notwithstanding any other provisions of law, in each county wherein the juvenile hall is not located at the county seat of the county, a majority of the judges of the superior court in and for such county may by an order filed with the ~~county clerk of such county~~ clerk of the court direct that a session or sessions of the superior court, while sitting for the purpose of hearing and determining cases and proceedings arising under Chapter 2 of Part 1 of Division 2 or Chapter 2 of Part 1 of Division 6 or Chapter 4 of Part 4 of Division 6 of the Welfare and Institutions Code, may be held or continued in any ~~judicial district~~ place in the county in which the juvenile hall is located and thereafter such session or sessions of the ~~superior~~ court may be held or continued in the ~~judicial district~~ location designated in such order. In a county having two superior court judges the ~~senior~~ presiding judge may make the order.

Comment. Section 73e is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Section 38 (judicial district).

The section is also amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

The section is also amended to replace language referring to the senior judge with language referring to the presiding judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Code Civ. Proc. § 75 (amended). Submission of noncontested matter

SEC. ___. Section 75 of the Code of Civil Procedure is amended to read:

75. The superior court in any county ~~in which there is only one judge~~ may by rule provide that, whenever ~~the judge is~~ all judges are absent from the county ~~upon assignment by the Chairman of the Judicial Council~~, any noncontested matter in which no evidence is required, or which may be submitted upon affidavits, shall be deemed submitted upon the filing with the clerk of a statement of submission by the party or ~~his~~ the party's attorney or upon the date set for the hearing.

Comment. Section 75 is amended to reflect the fact that every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq.* (number of judges).

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

SEC. ___. Section 77 of the Code of Civil Procedure is amended to read:

77. (a) In every county and city and county, there is an appellate division of the superior court consisting of three judges or, when the Chief Justice finds it necessary, four judges.

The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence and quality of each appellate division. Each judge assigned to the appellate division of a superior court shall be a judge of that court, a judge of the superior court of another county, or a judge retired from the superior court or a court of higher jurisdiction in this state.

The Chief Justice shall designate one of the judges of each appellate division as the presiding judge of the division.

(b) In each appellate division, no more than three judges shall participate in a hearing or decision. The presiding judge of the division shall designate the three judges who shall participate.

(c) In addition to their other duties, the judges designated as members of the appellate division of the superior court shall serve for the period specified in the order of designation. Whenever a judge is designated to serve in the appellate division of the superior court of a county other than the county in which that judge was elected or appointed as a superior court judge, or if the judge is retired, in a county other than the county in which the judge resides, the judge shall receive ~~from the county to which the judge is designated~~ expenses for travel, board, and lodging. If the judge is out of the judge's county overnight or longer, by reason of the designation, that judge shall be paid a per diem allowance in lieu of expenses for board and lodging in the same amounts as are payable for those purposes to justices of the Supreme Court under the rules of the State Board of Control. In addition, a retired judge shall receive ~~from the state and the county to which the judge is designated~~, for the time so served, amounts equal to that which the judge would have received ~~from each~~ if the judge had been assigned to the superior court of the county.

(d) The concurrence of two judges of the appellate division of the superior court shall be necessary to render the decision in every case in, and to transact any other business except business that may be done at chambers by the presiding judge of, the division. The presiding judge shall convene the appellate division when necessary. The presiding judge shall also supervise its business and transact any business that may be done at chambers.

(e) The appellate division of the superior court has jurisdiction on appeal ~~from the following courts~~, in all cases in which an appeal may be taken to the superior court or the appellate division of the superior court as provided by law, except where the appeal is a retrial in the superior court~~:~~

~~(1) The municipal courts within the county.~~

~~(2) The superior court in a county in which there is no municipal court~~.

(f) The powers of each appellate division shall be the same as are now or may hereafter be provided by law or rule of the Judicial Council relating to appeals to the appellate division of the superior courts.

(g) The Judicial Council shall promulgate rules, not inconsistent with law, to promote the independence of, and govern the practice and procedure and the disposition of the business of the appellate division.

(h) ~~Notwithstanding any other provision of law, the Chief Justice may designate any municipal court judge as a member of the appellate division of the superior court if the~~

~~municipal court is participating in a trial court coordination plan approved by the Judicial Council and the designated municipal court judge has been assigned to the superior court of the county by the Chief Justice~~.

~~(i) A reference in any other statute to the appellate department of the superior court means the appellate division of the superior court.~~

~~(j)~~ Notwithstanding the provisions of subdivisions (b) and (d), appeals from convictions of traffic infractions may be heard and decided by one judge of the appellate division of the superior court.

Comment. Subdivision (c) of Section 77 is amended to reflect enactment of the Trial Court Funding Act. See Gov't Code §§ 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Subdivisions (e) and (h) are amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Subdivision (i) is deleted as obsolete.

Code Civ. Proc. §§ 81-84 (repealed). Municipal courts

SEC. ___. Chapter 5 (commencing with Section 81) of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

Comment. Sections 81-84 are repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 85.1 of the Code of Civil Procedure is repealed.

~~85.1. Except as otherwise provided by statute, the municipal court, or the superior court in a county in which there is no municipal court, has original jurisdiction in a limited civil case.~~

Comment. Section 85.1 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Cal. Const. art. VI, § 10 (original jurisdiction).

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

SEC. ___. Section 86.1 of the Code of Civil Procedure is amended to read:

86.1. An action brought pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) is a limited civil case if civil penalties are not sought or amount to twenty-five thousand dollars ($25,000) or less. ~~An action brought in a municipal court may be transferred to the superior court for consolidation with any other citation enforcement action pending in that court, on the motion of either party~~.

Comment. Section 86.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 1048 (consolidation of actions in superior court).

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

SEC. ___. Section 116.210 of the Code of Civil Procedure is amended to read:

116.210. In each ~~municipal court and each~~ superior court ~~in a county in which there is no municipal court~~, there shall be a small claims division. The small claims division may be known as the small claims court.

Comment. Section 116.210 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 116.250 (amended). Small claims court sessions

SEC. ___. Section 116.250 of the Code of Civil Procedure is amended to read:

116.250. (a) Sessions of the small claims court may be scheduled at any time and on any day, including Saturdays, but excluding other judicial holidays. They may also be scheduled at any public building within the ~~judicial district~~ county, including places outside the courthouse.

(b) Each ~~small claims division of a municipal court with four or more judicial officers, and each~~ small claims division of a superior court with seven or more judicial ~~officers,~~ officers shall conduct at least one night session or Saturday session each month for the purpose of hearing small claims cases other than small claims appeals. The term "session" includes, but is not limited to, a proceeding conducted by a member of the State Bar acting as a mediator or referee.

Comment. Section 116.250 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial district).

Code Civ. Proc. § 116.950 (amended). Advisory committee

SEC. ___. Section 116.950 of the Code of Civil Procedure is amended to read:

116.950. (a) This section shall become operative only if the Department of Consumer Affairs determines that sufficient private or public funds are available in addition to the funds available in the department's current budget to cover the costs of implementing this section.

(b) There shall be established an advisory committee, constituted as set forth in this section, to study small claims practice and procedure, with particular attention given to the improvement of procedures for the enforcement of judgments.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.

(d) The advisory committee shall be composed as follows:

(1) The Attorney General or a representative.

(2) Two consumer representatives from consumer groups or agencies, appointed by the Secretary of the State and Consumer Services Agency.

(3) One representative appointed by the Speaker of the Assembly and one representative appointed by the President pro Tempore of the Senate.

(4) Two representatives appointed by the Board of Governors of the State Bar.

(5) Two representatives of the business community, appointed by the Secretary of the Trade and Commerce Agency.

(6) Six judicial officers who have extensive experience presiding in small claims court, appointed by the Judicial Council. Judicial officers appointed under this subdivision may include judicial officers of the superior court, ~~judicial officers of the municipal court,~~ judges of the appellate courts, retired judicial officers, and temporary judges.

(7) One representative appointed by the Governor.

(8) Two clerks of the court appointed by the Judicial Council.

(e) Staff assistance to the advisory committee shall be provided by the Department of Consumer Affairs, with the assistance of the Judicial Council, as needed.

Comment. Section 116.950 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 134 of the Code of Civil Procedure is amended to read:

134. (a) Except as provided in subdivision (c), the courts shall be closed for the transaction of judicial business on judicial holidays for all but the following purposes:

(1) To give, upon their request, instructions to a jury when deliberating on their verdict.

(2) To receive a verdict or discharge a jury.

(3) For the conduct of arraignments and the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature.

(4) For the conduct of Saturday small claims court sessions pursuant to the Small Claims Act set forth in Chapter 5.5 (commencing with Section 116.110).

(b) Injunctions and writs of prohibition may be issued and served on any day.

(c) In any superior ~~or municipal~~ court, one or more departments of the court may remain open and in session for the transaction of any business that may come before the department in the exercise of the civil or criminal jurisdiction of the court, or both, on a judicial holiday or at any hours of the day or night, or both, as the judges of the court prescribe.

(d) The fact that a court is open on a judicial holiday shall not make that day a nonholiday for purposes of computing the time required for the conduct of any proceeding nor for the performance of any act. Any paper lodged with the court at a time when the court is open pursuant to subdivision (c), shall be filed by the court on the next day that is not a judicial holiday, if the document meets appropriate criteria for filing.

Comment. Subdivision (c) of Section 134 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 166 (amended). Authority of superior court judge

SEC. ___. Section 166 of the Code of Civil Procedure is amended to read:

166. (a) The ~~judge or~~ judges of the superior ~~and municipal~~ courts may, in chambers~~, in the matters within the jurisdiction of their respective courts~~:

(1) Grant all orders and writs that are usually granted in the first instance upon an ex parte application, and hear and dispose of those orders and writs, appoint referees, require and receive inventories and accounts to be filed, order notice of settlement of supplemental accounts, suspend the powers of personal representatives, guardians, or conservators in the cases allowed by law, appoint special administrators, grant letters of temporary guardianship or conservatorship, approve or reject claims, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

(2) Hear and determine all motions made pursuant to Section 657 or 663.

(3) Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.

(4) Hear and determine motions to tax costs of enforcing a judgment.

(5) Approve bonds and undertakings.

(b) A judge may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or that a judge may exercise or perform in chambers.

Comment. Subdivision (a) of Section 166 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Subdivision (a) is also amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. See Gov't Code § 13 (plural includes singular).

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

SEC. ___. Section 170.5 of the Code of Civil Procedure is amended to read:

170.5. For the purposes of Sections 170 to 170.5, inclusive, the following definitions apply:

(a) "Judge" means judges of the ~~municipal and~~ superior courts, and court commissioners and referees.

(b) "Financial interest" means ownership of more than a 1 percent legal or equitable interest in a party, or a legal or equitable interest in a party of a fair market value in excess of one thousand five hundred dollars ($1,500), or a relationship as director, advisor or other active participant in the affairs of a party, except as follows:

(1) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in those securities unless the judge participates in the management of the fund.

(2) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(3) The proprietary interest of a policyholder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest.

(c) "Officer of a public agency" does not include a Member of the Legislature or a state or local agency official acting in a legislative capacity.

(d) The third degree of relationship shall be calculated according to the civil law system.

(e) "Private practice of law" includes a fee for service, retainer, or salaried representation of private clients or public agencies, but excludes lawyers as full-time employees of public agencies or lawyers working exclusively for legal aid offices, public defender offices, or similar nonprofit entities whose clientele is by law restricted to the indigent.

(f) "Proceeding" means the action, case, cause, motion, or special proceeding to be tried or heard by the judge.

(g) "Fiduciary" includes any executor, trustee, guardian, or administrator.

Comment. Subdivision (a) of Section 170.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 170.6 of the Code of Civil Procedure is amended to read:

170.6. (1) No judge, court commissioner, or referee of any superior ~~or municipal~~ court of the State of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein that involves a contested issue of law or fact when it shall be established as hereinafter provided that the judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in the action or proceeding.

(2) Any party to or any attorney appearing in any such action or proceeding may establish this prejudice by an oral or written motion without notice supported by affidavit

or declaration under penalty of perjury or an oral statement under oath that the judge, court commissioner, or referee before whom the action or proceeding is pending or to whom it is assigned is prejudiced against any such party or attorney or the interest of the party or attorney so that the party or attorney cannot or believes that he or she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee. Where the judge, other than a judge assigned to the case for all purposes, court commissioner, or referee assigned to or who is scheduled to try the cause or hear the matter is known at least 10 days before the date set for trial or hearing, the motion shall be made at least five days before that date. If directed to the trial of a cause where there is a master calendar, the motion shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial. If directed to the trial of a cause that has been assigned to a judge for all purposes, the motion shall be made to the assigned judge or to the presiding judge by a party within 10 days after notice of the all purpose assignment, or if the party has not yet appeared in the action, then within 10 days after the appearance. If the court in which the action is pending is authorized to have no more than one judge and the motion claims that the duly elected or appointed judge of that court is prejudiced, the motion shall be made before the expiration of 30 days from the date of the first appearance in the action of the party who is making the motion or whose attorney is making the motion. In no event shall any judge, court commissioner, or referee entertain the motion if it be made after the drawing of the name of the first juror, or if there be no jury, after the making of an opening statement by counsel for plaintiff, or if there is no such statement, then after swearing in the first witness or the giving of any evidence or after trial of the cause has otherwise commenced. If the motion is directed to a hearing (other than the trial of a cause), the motion shall be made not later than the commencement of the hearing. In the case of trials or hearings not herein specifically provided for, the procedure herein specified shall be followed as nearly as may be. The fact that a judge, court commissioner, or referee has presided at or acted in connection with a pretrial conference or other hearing, proceeding or motion prior to trial and not involving a determination of contested fact issues relating to the merits shall not preclude the later making of the motion provided for herein at the time and in the manner hereinbefore provided.

A motion under this paragraph may be made following reversal on appeal of a trial court's decision, or following reversal on appeal of a trial court's final judgment, if the trial judge in the prior proceeding is assigned to conduct a new trial on the matter. Notwithstanding paragraph (3) of this section, the party who filed the appeal that resulted in the reversal of a final judgment of a trial court may make a motion under this section regardless of whether that party or side has previously done so. The motion shall be made within 60 days after the party or the party's attorney has been notified of the assignment.

(3) If the motion is duly presented and the affidavit or declaration under penalty of perjury is duly filed or such oral statement under oath is duly made, thereupon and without any further act or proof, the judge supervising the master calendar, if any, shall assign some other judge, court commissioner, or referee to try the cause or hear the matter. In other cases, the trial of the cause or the hearing of the matter shall be assigned or transferred to another judge, court commissioner, or referee of the court in which the trial or matter is pending or, if there is no other judge, court commissioner, or referee of the court in which the trial or matter is pending, the Chair of the Judicial Council shall assign some other judge, court commissioner, or referee to try the cause or hear the matter as promptly as possible. Except as provided in this section, no party or attorney shall be permitted to make more than one such motion in any one action or special

proceeding pursuant to this section; and in actions or special proceedings where there may be more than one plaintiff or similar party or more than one defendant or similar party appearing in the action or special proceeding, only one motion for each side may be made in any one action or special proceeding.

(4) Unless required for the convenience of the court or unless good cause is shown, a continuance of the trial or hearing shall not be granted by reason of the making of a motion under this section. If a continuance is granted, the cause or matter shall be continued from day to day or for other limited periods upon the trial or other calendar and shall be reassigned or transferred for trial or hearing as promptly as possible.

(5) Any affidavit filed pursuant to this section shall be in substantially the following form:

(Here set forth court and cause)

State of California,) PEREMPTORY CHALLENGE
County of _____) ss.

_____, being duly sworn, deposes and says: That he or she is a party (or attorney for a party) to the within action (or special proceeding). That _____ the judge, court commissioner, or referee before whom the trial of the (or a hearing in the) aforesaid action (or special proceeding) is pending (or to whom it is assigned) is prejudiced against the party (or his or her attorney) or the interest of the party (or his or her attorney) so that affiant cannot or believes that he or she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee.

Subscribed and sworn to before me this
_____ day of _____, ~~19~~ 20 ___.
(Clerk or notary public or
other officer administering oath)

(6) Any oral statement under oath or declaration under penalty of perjury made pursuant to this section shall include substantially the same contents as the affidavit above.

(7) Nothing in this section shall affect or limit Section 170 or Title 4 (commencing with Section 392) of Part 2, and this section shall be construed as cumulative thereto.

(8) If any provision of this section or the application to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application and to this end the provisions of this section are declared to be severable.

Comment. Subdivision (1) of Section 170.6 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 170.9 (amended). Gifts to judges

SEC. ___. Section 170.9 of the Code of Civil Procedure is amended to read:

170.9. (a) No judge shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars ($250). This section shall not be construed to authorize the receipt of gifts that would otherwise be prohibited by the California Code of Judicial Ethics adopted by the California Supreme Court or any other provision of law.

(b) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by subdivision (e).

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(3) A gift, bequest, favor, or loan from any person whose preexisting relationship with a judge would prevent the judge from hearing a case involving that person, under the Code of Judicial Ethics adopted by the California Supreme Court.

(c) For purposes of this section, "judge" means judges of the ~~municipal or~~ superior courts, and justices of the courts of appeal or the Supreme Court.

(d) The gift limitation amounts in this section shall be adjusted biennially by the Commission on Judicial Performance to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars ($10).

(e) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a judicial or governmental purpose, or to an issue of state, national, or international public policy, is not prohibited or limited by this section if any of the following apply:

(1) The travel is in connection with a speech, practice demonstration, or group or panel discussion given or participated in by the judge, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, demonstration, or discussion, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency or authority, a foreign government, a foreign bar association, an international service organization, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States who substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

For purposes of this section, "foreign bar association" means an association of attorneys located outside the United States (A) that performs functions substantially equivalent to those performed by state or local bar associations in this state and (B) that permits membership by attorneys in that country representing various legal specialties and does not limit membership to attorneys generally representing one side or another in litigation. "International service organization" means a bona fide international service organization of which the judge is a member. A judge who accepts travel payments from an international service organization pursuant to this subdivision shall not preside over or participate in decisions affecting that organization, its state or local chapters, or its local members.

(3) The travel is provided by a state or local bar association or judges professional association in connection with testimony before a governmental body or attendance at any professional function hosted by the bar association or judges professional association, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the professional function.

(f) Payments, advances, and reimbursements for travel not described in subdivision (e) are subject to the limit in subdivision (a).

(g) No judge shall accept any honorarium.

(h) "Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal or like gathering.

(i) "Honorarium" does not include earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching or writing for a publisher, and does not include fees or other things of value received pursuant to Section 94.5 of the Penal Code for performance of a marriage.

For purposes of this section, "teaching" shall include presentations to impart educational information to lawyers in events qualifying for credit under Mandatory Continuing Legal Education, to students in bona fide educational institutions, and to associations or groups of judges.

(j) Subdivision (a) and (e) shall apply to all payments, advances, reimbursements for travel and related lodging and subsistence.

(k) This section does not apply to any honorarium that is not used and, within 30 days after receipt, is either returned to the donor or delivered to the Controller for deposit in the General Fund without being claimed as a deduction from income for tax purposes.

(*l*) "Gift" means any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. However, the term "gift" does not include:

(1) Informational material such as books, reports, pamphlets, calendars, periodicals, cassettes and discs, or free or reduced-price admission, tuition, or registration, for informational conferences or seminars. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(2) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

(3) Gifts from a judge's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars ($250).

(7) Admission to events hosted by state or local bar associations or judges' professional associations, and provision of related food and beverages at such events, when attendance does not require "travel" as described in paragraph (3) of subdivision (e).

(m) The Commission on Judicial Performance shall enforce the prohibitions of this section.

Comment. Subdivision (c) of Section 170.9 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 179 of the Code of Civil Procedure is amended to read:

179. Each of the justices of the Supreme Court and of any court of appeal and the judges of the superior courts, shall have power in any part of the state~~, and every municipal court judge shall have power within the county or city and county in which the judge is elected or appointed~~, to take and certify:

1. The proof and acknowledgment of a conveyance of real property, or of any other written instrument.
2. The acknowledgment of satisfaction of a judgment of any court.
3. An affidavit or deposition to be used in this state.

Comment. Section 179 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 194 of the Code of Civil Procedure is amended to read:

194. The following definitions govern the construction of this chapter:

(a) "County" means any county or any coterminous city and county.

(b) "Court" means ~~the~~ a superior ~~and municipal courts~~ court of this state, and includes, when the context requires, any judge of the court.

(c) "Deferred jurors" are those prospective jurors whose request to reschedule their service to a more convenient time is granted by the jury commissioner.

(d) "Excused jurors" are those prospective jurors who are excused from service by the jury commissioner for valid reasons based on statute, state or local court rules, and policies.

(e) "Juror pool" means the group of prospective qualified jurors appearing for assignment to trial jury panels.

(f) "Jury of inquest" is a body of persons summoned from the citizens before the sheriff, coroner, or other ministerial officers, to inquire of particular facts.

(g) "Master list" means a list of names randomly selected from the source lists.

(h) "Potential juror" means any person whose name appears on a source list.

(i) "Prospective juror" means a juror whose name appears on the master list.

(j) "Qualified juror" means a person who meets the statutory qualifications for jury service.

(k) "Qualified juror list" means a list of qualified jurors.

(*l*) "Random" means that which occurs by mere chance indicating an unplanned sequence of selection where each juror's name has substantially equal probability of being selected.

(m) "Source list" means a list used as a source of potential jurors.

(n) "Summons list" means a list of prospective or qualified jurors who are summoned to appear or to be available for jury service.

(*o*) "Trial jurors" are those jurors sworn to try and determine by verdict a question of fact.

(p) "Trial jury" means a body of persons selected from the citizens of the area served by the court and sworn to try and determine by verdict a question of fact.

(q) "Trial jury panel" means a group of prospective jurors assigned to a courtroom for the purpose of voir dire.

Comment. Subdivision (b) of Section 194 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 195 of the Code of Civil Procedure is amended to read:

195. (a) In each county, there shall be one jury commissioner who shall be appointed by, and serve at the pleasure of, a majority of the judges of the superior court. In any county where there is a superior court administrator or executive officer, that person shall serve as ex officio jury commissioner. ~~The person so appointed shall serve as jury commissioner for all trial courts within the county. In any municipal court district in the county, a majority of the judges may appoint the clerk/administrator to select jurors for their court pursuant to this chapter.~~ In any court jurisdiction where any person other than a court administrator or clerk/administrator is serving as jury commissioner on the effective date of this section, that person shall continue to so serve at the pleasure of a majority or the judges of the appointing court.

(b) ~~Except where the superior court administrator or executive officer serves as ex officio jury commissioner, the jury commissioner's salary shall be set by joint action of the board of supervisors and a majority of the superior court judges.~~ Any jury commissioner may, whenever the business of court requires, ~~and with the consent of the board of supervisors,~~ appoint deputy jury commissioners. Salaries and benefits of those deputies shall be fixed in the same manner as salaries and benefits of other court employees.

(c) The jury commissioner shall be primarily responsible for managing the jury system under the general supervision of the court in conformance with the purpose and scope of this act. He or she shall have authority to establish policies and procedures necessary to fulfill this responsibility.

Comment. Subdivision (a) of Section 195 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Subdivision (b) is amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Gov't Code §§ 71620 (trial court personnel), 71623 (salaries).

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

SEC. ___. Section 198.5 of the Code of Civil Procedure is amended to read:

198.5. ~~(a) Except as provided in subdivision (b), in counties where sessions of the superior court are held in cities other than the county seat, the names for master jury lists and qualified jury lists to serve in those cities may be selected from the judicial district in which the city is located and, if the judges of the court determine that it is necessary or advisable, from a judicial district adjacent to a judicial district in which the city is located.~~

~~(b) In a county in which there is no municipal court, if~~ <u>If</u> sessions of the superior court are held in a location other than the county seat, the names for master jury lists and qualified jury lists to serve in a session may be selected from the area in which the session is held, pursuant to a local superior court rule that <u>(1)</u> divides the county in a manner that provides all qualified persons in the county an equal opportunity to be considered for jury service <u>and (2) gives each prospective juror residing in the county an opportunity to elect to serve on a jury with respect to a trial held anywhere in the county. Nothing in this section precludes the court, in its discretion, from ordering a countywide venire in the interest of justice</u>.

Comment. Section 198.5 is amended, effective January 1, 2004, to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. It incorporates provisions drawn from Sections 199 (El Dorado County venires), 199.2 (Placer County venires), 199.3 (Nevada County venires), and 199.5 (Santa Barbara County venires).

Code Civ. Proc. § 199 (repealed). El Dorado County venires

SEC. ___. Section 199 of the Code of Civil Procedure is repealed.

~~199. In El Dorado County, trial jury venires for the superior court shall be drawn from residents of the supervisorial district, or a portion thereof, within which the court will sit for such trial and from residents of such other immediately adjacent supervisorial district, or portion thereof, as may be specified by local superior court rules. Such venireman shall serve the court sitting in the geographical portion of the county from which this section and such court rules specify trial jury venires shall be drawn; provided that such rules shall afford to each eligible resident of such county an opportunity for selection as a trial jury venireman. Such court may, in its discretion, order a countywide venire in the interest of justice.~~

Comment. The special rule of Section 199 is superseded by the general rule of Section 198.5 (superior court venires), operative January 1, 2004.

Code Civ. Proc. § 199.2 (repealed). Placer County venires

SEC. ___. Section 199.2 of the Code of Civil Procedure is repealed.

~~199.2. In Placer County prospective jurors residing in the Tahoe Division of the Placer County Municipal Court, except as otherwise provided in this section, shall only be included in trial court venires for sessions of the superior court held within that division. However, each prospective juror residing in the county shall be given the opportunity to elect to serve on juries with respect to trials held anywhere in the county in accordance with the rules of the superior court, which shall afford to each eligible resident of the county an opportunity for selection as a trial jury venireman. Additionally, nothing in this section shall preclude the superior or municipal court, in its discretion, from ordering a countywide venire in the interest of justice.~~

Comment. The special rule of Section 199.2 is superseded by the general rule of Section 198.5 (superior court venires), operative January 1, 2004.

Code Civ. Proc. § 199.3 (repealed). Nevada County venires

SEC. ___. Section 199.3 of the Code of Civil Procedure is repealed.

~~199.3. In Nevada County, trial jury venires for the Truckee Branch of the Superior Court shall be drawn from residents of the Truckee Division of the Nevada County Municipal Court, except as otherwise provided in this section. Prospective jurors residing in the Truckee Division of Nevada County Municipal Court, except as otherwise provided in this section, shall only be included in trial court venires or sessions of the municipal and superior court held within that division. However, each prospective juror residing in the county shall be given the opportunity to elect to serve on juries with respect to trials held anywhere in the county in accordance with the rules of the superior and municipal court, which shall afford to each eligible resident of the county an opportunity for selection as a trial jury venireman. Additionally, nothing in this section shall preclude the superior or municipal court, in its discretion, from ordering a countywide venire in the interest of justice.~~

Comment. The special rule of Section 199.3 is superseded by the general rule of Section 198.5 (superior court venires), operative January 1, 2004.

Code Civ. Proc. § 199.5 (repealed). Santa Barbara County venires

SEC. ___. Section 199.5 of the Code of Civil Procedure is repealed.

~~199.5. In Santa Barbara County, trial jury venires for the superior court shall be drawn from residents of the supervisorial district within which the court will sit for that trial and from residents of such other immediately adjacent supervisorial district, or portion thereof, as may be specified by local superior court rules. The venireman shall serve the~~

~~court sitting in the geographical portion of the county from which this section and such court rules specify trial jury venires shall be drawn. However, those rules shall afford to each eligible resident of such county an opportunity for selection as a trial jury venireman. The court may, in its discretion, order a countywide venire in the interest of justice.~~

Comment. The special rule of Section 199.5 is superseded by the general rule of Section 198.5 (superior court venires), operative January 1, 2004.

Code Civ. Proc. § 200 (repealed). Municipal court jury pools

SEC. ___. Section 200 of the Code of Civil Procedure is repealed.

~~200. When authorized by local superior court rules, a municipal court district pursuant to duly adopted court rule may use the same juror pool as that summoned for use in the superior court. Persons so selected for jury service in those municipal courts need not be residents of the judicial district. In Los Angeles County, the municipal courts shall use the same jury pool as that summoned for use in the superior court.~~

Comment. Section 200 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 201 (amended). Jury panels

SEC. ___. Section 201 of the Code of Civil Procedure is amended to read:

201. ~~In any county having two or more judges of the superior court, or in any judicial district, or city and county, in which a municipal court having two or more judges is established, a~~ <u>In any superior court, a</u> separate trial jury panel may be drawn, summoned, and impaneled for each judge, or any one panel may be drawn, summoned, and impaneled by any one of the judges, for use in the trial of cases before any of the judges, as occasion may require. In those ~~counties or judicial districts~~ <u>courts</u>, when a panel of jurors is in attendance for service before one or more of the judges, whether impaneled for common use or not, the whole or any number of the jurors from such panel may be required to attend and serve in the trial of cases, or to complete a panel, or jury, before any other of the judges.

Comment. Section 201 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The section is also amended to reflect the fact that every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges).

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

SEC. ___. Section 215 of the Code of Civil Procedure is amended to read:

215. (a) Beginning July 1, 2000, the fee for jurors in the superior ~~and municipal courts~~ <u>court</u>, in civil and criminal cases, is fifteen dollars ($15) a day for each day's attendance as a juror after the first day.

(b) Unless a higher rate of mileage is otherwise provided by statute or by county or city and county ordinance, jurors in the superior ~~and municipal courts~~ <u>court</u> shall be reimbursed for mileage at the rate of fifteen cents ($0.15) per mile for each mile actually traveled in attending court as a juror, in going only.

Comment. Section 215 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 217 (amended). Food, lodging, and necessities for jurors in criminal cases

SEC. ___. Section 217 of the Code of Civil Procedure is amended to read:

217. In criminal cases only, while the jury is kept together, either during the progress of the trial or after their retirement for deliberation, the court may direct the sheriff or marshal to provide the jury with suitable and sufficient food and lodging, or other reasonable necessities. ~~In the superior and municipal courts, the~~ The expenses incurred under ~~the provisions of~~ this section shall be charged against the ~~county or city and county~~ Trial Court Operations Fund of the county in which the court is held. All those expenses shall be paid on the order of the court.

Comment. Section 217 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't Code §§ 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

SEC. ___. Section 234 of the Code of Civil Procedure is amended to read:

234. Whenever, in the opinion of a judge of a superior ~~or municipal~~ court about to try a civil or criminal action or proceeding, the trial is likely to be a protracted one, or upon stipulation of the parties, the court may cause an entry to that effect to be made in the minutes of the court and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or more additional jurors, in its discretion, to be known as "alternate jurors."

These alternate jurors shall be drawn from the same source, and in the same manner, and have the same qualifications, as the jurors already sworn, and shall be subject to the same examination and challenges. However, each side, or each defendant, as provided in Section 231, shall be entitled to as many peremptory challenges to the alternate jurors as there are alternate jurors called.

The alternate jurors shall be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and shall, unless excused by the court, attend at all times upon the trial of the cause in company with the other jurors, but shall not participate in deliberation unless ordered by the court, and for a failure to do so are liable to be punished for contempt.

They shall obey the orders of and be bound by the admonition of the court, upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff or marshal during the trial of the cause, the alternate jurors shall also be kept in confinement with the other jurors; and upon final submission of the case to the jury, the alternate jurors shall be kept in the custody of the sheriff or marshal who shall not suffer any communication to be made to them except by order of the court, and shall not be discharged until the original jurors are discharged, except as provided in this section.

If at any time, whether before or after the final submission of the case to the jury, a juror dies or becomes ill, or upon other good cause shown to the court is found to be unable to perform his or her duty, or if a juror requests a discharge and good cause appears therefor, the court may order the juror to be discharged and draw the name of an alternate, who shall then take his or her place in the jury box, and be subject to the same rules and regulations as though he or she has been selected as one of the original jurors.

All laws relative to fees, expenses, and mileage or transportation of jurors shall be applicable to alternate jurors, except that in civil cases the sums for fees and mileage or

transportation need not be deposited until the judge directs alternate jurors to be impaneled.

Comment. Section 234 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 274a (amended). Reporting and transcription of proceedings

SEC. ___. Section 274a of the Code of Civil Procedure is amended to read:

274a. Any judge of the superior court may have any opinion given or rendered by the judge in the trial of a felony case or ~~a civil case other than a limited~~ an unlimited civil case, pending in that court, or any necessary order, petition, citation, commitment or judgment in any probate proceeding, proceeding concerning new or additional bonds of county officials or juvenile court proceeding, ~~or necessary order, petition, citation, commitment, or oral testimony or judgment in any insanity proceeding or proceedings relative to an alleged feebleminded person,~~ or the testimony or judgment relating to the custody or support of minor children in any proceeding in which the custody or support of minor children is involved, taken down in shorthand and transcribed together with such copies as the court may deem necessary by the official reporter or an official reporter pro tempore of the court~~, but if there be no official reporter for the court, then by any competent stenographer; the cost thereof shall be a legal charge against the county, payable out of the county treasury, except the fee for reporting and transcribing in any civil action or proceeding or in any probate proceeding, in the manner set forth in Sections 69947 to 69953, inclusive, of the Government Code~~.

Comment. Section 274a is amended to reflect enactment of the Trial Court Funding Act. See Gov't Code §§ 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Gov't Code §§ 68073 (responsibility for court operations and facilities), 69941 (appointment of official reporters).

The section is also amended to delete the reference to insanity proceedings or proceedings for the feebleminded. That provision is superseded by Government Code Section 69952(a)(4) (verbatim record in proceedings under Lanterman-Petris-Short Act).

The section is also amended to replace "civil case other than a limited civil case" with a reference to "unlimited civil case." See Section 88 (civil action or proceeding other than limited civil case may be referred to as unlimited civil case).

Code Civ. Proc. § 394 (amended). Venue in action against county, city, or local agency

SEC. ___. Section 394 of the Code of Civil Procedure is amended to read:

394. (a) An action or proceeding against a county, or city and county, a city, or local agency, may be tried in such county, or city and county, or the county in which such city or local agency is situated, unless the action or proceeding is brought by a county, or city and county, a city, or local agency, in which case it may be tried in any county, or city and county, not a party thereto and in which the city or local agency is not situated. Except for actions initiated by the district attorney pursuant to Section 11350, 11350.1, 11475.1, or 11476.1 of the Welfare and Institutions Code, any action or proceeding brought by a county, city and county, city, or local agency within a certain county, or city and county, against a resident of another county, city and county, or city, or a corporation doing business in the latter, shall be, on motion of either party, transferred for trial to a county, or city and county, other than the plaintiff, if the plaintiff is a county, or city and county, and other than that in which the plaintiff is situated, if the plaintiff is a city, or a local agency, and other than that in which the defendant resides, or is doing business, or is situated. Whenever an action or proceeding is brought against a county, city and county, city, or local agency, in any county, or city and county, other than the defendant,

if the defendant is a county, or city and county, or, if the defendant is a city, or local agency, other than that in which the defendant is situated, the action or proceeding must be, on motion of the said defendant, transferred for trial to a county, or city and county, other than that in which the plaintiff, or any of the plaintiffs, resides, or is doing business, or is situated, and other than the plaintiff county, or city and county, or county in which such plaintiff city or local agency is situated, and other than the defendant county, or city and county, or county in which such defendant city or local agency is situated; provided, however, that any action or proceeding against the city, county, city and county, or local agency for injury occurring within the city, county, or city and county, or within the county in which such local agency is situated, to person or property or person and property caused by the negligence or alleged negligence of such city, county, city and county, local agency, or its agents or employees, shall be tried in such county, or city and county, or if a city is a defendant, in such city or in the county in which such city is situated, or if a local agency is a defendant, in such county in which such local agency is situated. In any such action or proceeding, the parties thereto may, by stipulation in writing, or made in open court, and entered in the minutes, agree upon any county, or city and county, for the place of trial thereof. When the action or proceeding is one in which a jury is not of right, or in case a jury be waived, then in lieu of transferring the cause the court in the original county may request the chairman of the Judicial Council to assign a disinterested judge from a neutral county to hear said cause and all proceedings in connection therewith. When such action or proceeding is transferred to another county for trial, a witness required to respond to a subpoena for a hearing within the original county shall be compelled to attend hearings in the county to which the cause is transferred. If the demand for transfer be made by one party and the opposing party does not consent thereto the additional costs of the nonconsenting party occasioned by the transfer of the cause, including living and traveling expenses of said nonconsenting party and material witnesses, found by the court to be material, and called by such nonconsenting party, not to exceed five dollars ($5) per day each in excess of witness fees and mileage otherwise allowed by law, shall be assessed by the court hearing the cause against the party requesting the transfer. To the extent of such excess, such costs shall be awarded to the nonconsenting party regardless of the outcome of the trial. This section shall apply to actions or proceedings now pending or hereafter brought.

(b) ~~Any court in a county hereinabove designated as a proper county, which has jurisdiction of the subject matter of the action or proceeding, is a proper court for the trial thereof.~~

~~(c)~~ For the purposes of this section, "local agency" shall mean any governmental district, board, or agency, or any other local governmental body or corporation, but shall not include the State of California or any of its agencies, departments, commissions, or boards.

Comment. Section 394 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 396 of the Code of Civil Procedure is amended to read:

396. If an action or proceeding is commenced in a court that lacks jurisdiction of the subject matter thereof, as determined by the complaint or petition, if there is a court of this state that has subject matter jurisdiction, the action or proceeding shall not be dismissed (except as provided in Section 399, and subdivision 1 of Section 581) but shall, on the application of either party, or on the court's own motion, be transferred to a court

having jurisdiction of the subject matter that may be agreed upon by the parties, or, if they do not agree, to a court having subject matter jurisdiction that is designated by law as a proper court for the trial or determination thereof, and it shall thereupon be entered and prosecuted in the court to which it is transferred as if it had been commenced therein, all prior proceedings being saved. In any such case, if summons is served prior to the filing of the action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon that defendant of written notice of filing of the action or proceeding in the court to which it is transferred.

If an action or proceeding is commenced in or transferred to a court that has jurisdiction of the subject matter thereof as determined by the complaint or petition, and it thereafter appears from the verified pleadings, or at the trial, or hearing, that the determination of the action or proceeding, or of a cross-complaint, will necessarily involve the determination of questions not within the jurisdiction of the court, in which the action or proceeding is pending, the court, whenever that lack of jurisdiction appears, must suspend all further proceedings therein and transfer the action or proceeding and certify the pleadings (or if the pleadings be oral, a transcript of the same), and all papers and proceedings therein to a court having jurisdiction thereof that may be agreed upon by the parties, or, if they do not agree, to a court having subject matter jurisdiction that is designated by law as a proper court for the trial or determination thereof.

An action or proceeding that is transferred under the provisions of this section shall be deemed to have been commenced at the time the complaint or petition was filed in the court from which it was originally transferred.

Nothing herein shall be construed to preclude or affect the right to amend the pleadings as provided in this code.

~~Nothing herein shall be construed to require the superior court to transfer any action or proceeding because the judgment to be rendered, as determined at the trial or hearing, is one that might have been rendered by a municipal court in the same county or city and county.~~

~~In any case where the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be remitted and the action may continue in the court where it is pending.~~

Upon the making of an order for transfer, proceedings shall be had as provided in Section 399 of this code, the costs and fees thereof, and of filing the case in the court to which transferred, to be paid by the party filing the pleading in which the question outside the jurisdiction of the court appears unless the court ordering the transfer shall otherwise direct.

Comment. Section 396 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 403.040(e)-(f) (reclassification where judgment could have been rendered in limited civil case; reclassification where misclassification is due solely to excess in amount of demand).

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

SEC. ___. Section 402 of the Code of Civil Procedure is repealed.

~~402. The presiding judge of a municipal court district may order, for the convenience of the court, that any case pending trial be transferred to a contiguous municipal court district in the same county if the presiding judge in the district to which the case is proposed to be transferred consents to the transfer and notice thereof is given to the parties or their attorneys at least 10 days in advance of the date fixed for trial.~~

~~No fees shall be charged for the transfer of any case pursuant to this section.~~

Comment. Section 402 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 403 (amended). Transfer and coordination of noncomplex cases

SEC. ___. Section 403 of the Code of Civil Procedure is amended to read:

403. A judge may, on motion, transfer an action or actions from another court to that judge's court for coordination with an action involving a common question of fact or law within the meaning of Section 404. The motion shall be supported by a declaration stating facts showing that the actions meet the standards specified in Section 404.1, are not complex as defined by the Judicial Council and that the moving party has made a good faith effort to obtain agreement to the transfer from all parties to each action. Notice of the motion shall be served on all parties to each action and on each court in which an action is pending. Any party to that action may file papers opposing the motion within the time permitted by rule of the Judicial Council. The court to which a case is transferred may order the cases consolidated for trial pursuant to Section 1048 without any further motion or hearing.

~~If the cases are pending in different courts of the same county, the judge who grants the motion to transfer may also order the cases consolidated for trial in the receiving court.~~

The Judicial Council may adopt rules to implement this section, including rules prescribing procedures for preventing duplicative or conflicting transfer orders issued by different courts.

Comment. Section 403 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Sections 404-404.8 (coordination of complex cases).

Code Civ. Proc. § 403.010 (amended). Effect of chapter

SEC. ___. Section 403.010 of the Code of Civil Procedure is amended to read:

403.010. ~~(a) This chapter applies in a county in which there is no municipal court.~~

~~(b)~~ Nothing in this chapter expands or limits the law on whether a plaintiff, cross-complainant, or petitioner may file an amended complaint or other amended initial pleading. Nothing in this chapter expands or limits the law on whether, and to what extent, an amendment relates back to the date of filing the original complaint or other initial pleading.

Comment. Section 403.010 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 404 (amended). Petition for coordination of complex cases

SEC. ___. Section 404 of the Code of Civil Procedure is amended to read:

404. When civil actions sharing a common question of fact or law are pending in different courts, a petition for coordination may be submitted to the Chairperson of the Judicial Council, by the presiding judge of any such court, or by any party to one of the actions after obtaining permission from the presiding judge, or by all of the parties plaintiff or defendant in any such action. A petition for coordination, or a motion for permission to submit a petition, shall be supported by a declaration stating facts showing that the actions are complex, as defined by the Judicial Council and that the actions meet the standards specified in Section 404.1. On receipt of a petition for coordination, the Chairperson of the Judicial Council may assign a judge to determine whether the actions are complex, and if so, whether coordination of the actions is appropriate, or the

Chairperson of the Judicial Council may authorize the presiding judge of a court to assign the matter to judicial officers of the court to make the determination in the same manner as assignments are made in other civil cases.

~~Notwithstanding any other provision of law, when civil actions sharing a common question of fact or law are pending in a superior court and in a municipal court of the same county, the superior court may, on the motion of any party supported by an affidavit stating facts showing that the actions meet the standards specified in Section 404.1, order transfer from the municipal court and consolidation of the actions in the superior court.~~

Comment. Section 404 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Section 403 (transfer and coordination of noncomplex cases).

Code Civ. Proc. § 404.3 (amended). Order coordinating actions

SEC. ___. Section 404.3 of the Code of Civil Procedure is amended to read:

404.3. ~~(a)~~ A judge assigned pursuant to Section 404 who determines that coordination is appropriate shall order the actions coordinated, report that fact to the Chairperson of the Judicial Council, and the Chairperson of the Judicial Council shall either assign a judge to hear and determine the actions in the site or sites the assigned judge finds appropriate or authorize the presiding judge of a court to assign the matter to judicial officers of the court in the same manner as assignments are made in other civil cases.

~~(b) When an action pending in a superior court is sought to be coordinated with an action pending in a municipal court located in the same county, the presiding judge of the superior court may, as an alternative to coordination, order the municipal court action transferred to the superior court and consolidated with the superior court action.~~

Comment. Section 404.3 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Section 403 (transfer and coordination of noncomplex cases).

Code Civ. Proc. § 404.9 (amended). Delegation of duties by presiding judge

SEC. ___. Section 404.9 of the Code of Civil Procedure is amended to read:

404.9. Any duties of the presiding judge specified in this chapter may be delegated by the presiding judge to another judge of the court. ~~The term "presiding judge," as used in this chapter, includes the sole judge of a court having only one judge.~~

~~Notwithstanding any other provision of law, the Judicial Council shall provide by rule the practice and procedure for the transfer or coordination of civil actions in convenient courts under this chapter, including provision for giving notice and presenting evidence.~~

Comment. Section 404.9 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The first paragraph is amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Gov't Code § 69508.5 (presiding judge).

The second paragraph is deleted as unnecessary. The provision relating to proceedings for transfer from a municipal court is obsolete. The provision for coordination rules is redundant. See Section 404.7 (rules for coordination of complex cases). *Cf*. Section 403 (transfer and coordination of noncomplex cases).

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

SEC. ___. Section 422.30 of the Code of Civil Procedure is amended to read:

422.30. (a) Every pleading shall contain a caption setting forth:

(1) The name of the court and county~~, and, in municipal courts, the name of the judicial district~~, in which the action is brought.

(2) The title of the action.

(b) In a limited civil case ~~in a county in which there is no municipal court~~, the caption shall state that the case is a limited civil case, and the clerk shall classify the case accordingly.

Comment. Section 422.30 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial district). *Cf.* Gov't Code § 71042.5 (preservation of judicial districts for purpose of publication).

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

SEC. ___. Section 575 of the Code of Civil Procedure is amended to read:

575. The Judicial Council may promulgate rules governing pretrial conferences, and the time, manner and nature thereof, in civil cases at issue, or in one or more classes thereof, in the superior ~~and municipal~~ courts.

Comment. Section 575 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 594 of the Code of Civil Procedure is amended to read:

594. (a) In superior ~~and municipal~~ courts either party may bring an issue to trial or to a hearing, and, in the absence of the adverse party, unless the court, for good cause, otherwise directs, may proceed with the case and take a dismissal of the action, or a verdict, or judgment, as the case may require; provided, however, if the issue to be tried is an issue of fact, proof shall first be made to the satisfaction of the court that the adverse party has had 15 days' notice of such trial or five days' notice of the trial in an unlawful detainer action as specified in subdivision (b). If the adverse party has served notice of trial upon the party seeking the dismissal, verdict, or judgment at least five days prior to the trial, the adverse party shall be deemed to have had notice.

(b) The notice to the adverse party required by subdivision (a) shall be served by mail on all the parties by the clerk of the court not less than 20 days prior to the date set for trial. In an unlawful detainer action where notice is served by mail that service shall be mailed not less than 10 days prior to the date set for trial. If notice is not served by the clerk as required by this subdivision, it may be served by mail by any party on the adverse party not less than 15 days prior to the date set for trial, and in an unlawful detainer action where notice is served by mail that service shall be mailed not less than 10 days prior to the date set for trial. The time provisions of Section 1013 shall not serve to extend the notice of trial requirements under this subdivision for unlawful detainer actions. If notice is served by the clerk, proof thereof may be made by introduction into evidence of the clerk's certificate pursuant to subdivision (3) of Section 1013a or other competent evidence. If notice is served by a party, proof may be made by introduction into evidence of an affidavit or certificate pursuant to subdivision (1) or (2) of Section 1013a or other competent evidence. The provisions of this subdivision are exclusive.

Comment. Subdivision (a) of Section 594 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 628 of the Code of Civil Procedure is amended to read:

628. In superior ~~and municipal~~ courts upon receipt of a verdict, an entry must be made in the minutes of the court, specifying the time of trial, the names of the jurors and witnesses, and setting out the verdict at length; and where a special verdict is found, either the judgment rendered thereon, or if the case be reserved for argument or further consideration, the order thus reserving it.

Comment. Section 628 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 632 of the Code of Civil Procedure is amended to read:

632. In superior ~~and municipal~~ courts, upon the trial of a question of fact by the court, written findings of fact and conclusions of law shall not be required. The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial upon the request of any party appearing at the trial. The request must be made within 10 days after the court announces a tentative decision unless the trial is concluded within one calendar day or in less than eight hours over more than one day in which event the request must be made prior to the submission of the matter for decision. The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision. After a party has requested the statement, any party may make proposals as to the content of the statement of decision.

The statement of decision shall be in writing, unless the parties appearing at trial agree otherwise; however, when the trial is concluded within one calendar day or in less than 8 hours over more than one day, the statement of decision may be made orally on the record in the presence of the parties.

Comment. Section 632 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 655 (repealed). Application of article

SEC. ___. Section 655 of the Code of Civil Procedure is repealed.

~~655. The provisions of this article apply to superior or municipal courts.~~

Comment. Section 655 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 668 of the Code of Civil Procedure is amended to read:

668. Except as provided in Section 668.5, the clerk of the superior court ~~and municipal court,~~ must keep, with the records of the court, a book called the "judgment book," in which judgments must be entered.

Comment. Section 668 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 670 of the Code of Civil Procedure is amended to read:

670. In superior ~~and municipal~~ courts the following papers, without being attached together, shall constitute the judgment roll:

(a) In case the complaint is not answered by any defendant, the summons, with the affidavit or proof of service; the complaint; the request for entry of default with a memorandum indorsed thereon that the default of the defendant in not answering was

entered, and a copy of the judgment; if defendant has appeared by demurrer, and the demurrer has been overruled, then notice of the overruling thereof served on defendant's attorney, together with proof of the service; and in case the service so made is by publication, the affidavit for publication of summons, and the order directing the publication of summons.

(b) In all other cases, the pleadings, all orders striking out any pleading in whole or in part, a copy of the verdict of the jury, the statement of decision of the court, or finding of the referee, and a copy of any order made on demurrer, or relating to a change of parties, and a copy of the judgment; if there are two or more defendants in the action, and any one of them has allowed judgment to pass against him or her by default, the summons, with proof of its service, on the defendant, and if the service on the defaulting defendant be by publication, then the affidavit for publication, and the order directing the publication of the summons.

Comment. Section 670 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 701.530 (amended). Notice of sale of personal property

SEC. ___. Section 701.530 of the Code of Civil Procedure is amended to read:

701.530. (a) Notice of sale of personal property shall be in writing, shall state the date, time, and place of sale, and shall describe the property to be sold.

(b) Not less than 10 days before a sale of personal property, notice of sale shall be posted and served on the judgment debtor by the levying officer. Service shall be made personally or by mail.

(c) Posting under this section shall be in three public places in:

(1) The city in which the property is to be sold if it is to be sold in a city.

(2) The ~~judicial district~~ <u>county</u> in which the property is to be sold if it is not to be sold in a city.

(d) A sale of personal property of an individual may not take place until the expiration of the time during which the judgment debtor may make a claim of exemption under subdivision (a) of Section 703.520.

Comment. Subdivision (c)(2) of Section 701.530 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial district).

Code Civ. Proc. § 701.540 (amended). Notice of sale of interest in real property

SEC. ___. Section 701.540 of the Code of Civil Procedure is amended to read:

701.540. (a) Notice of sale of an interest in real property shall be in writing, shall state the date, time, and place of sale, shall describe the interest to be sold, and shall give a legal description of the real property and its street address or other common designation, if any. If the real property has no street address or other common designation, the notice of sale shall include a statement that directions to its location may be obtained from the levying officer upon oral or written request or, in the discretion of the levying officer, the notice of sale may contain directions to its location. Directions are sufficient if information as to the location of the real property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If an accurate legal description of the real property is given, the validity of the notice and sale is not affected by the fact that the street address or other common designation, or directions to its location, are erroneous or omitted.

(b) Not less than 20 days before the date of sale, notice of sale of an interest in real property shall be served, mailed, and posted by the levying officer as provided in subdivisions (c), (d), (e), and (f).

(c) Notice of sale shall be served on the judgment debtor. Service shall be made personally or by mail.

(d) Notice of sale shall be posted in the following places:

(1) One public place in the city in which the interest in the real property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the ~~judicial district~~ county in which the interest in the real property is to be sold.

(2) A conspicuous place on the real property.

(e) At the time notice is posted pursuant to paragraph (2) of subdivision (d), notice of sale shall be served or service shall be attempted on one occupant of the real property. Service on the occupant shall be made by leaving the notice with the occupant personally or, in the occupant's absence, with any person of suitable age and discretion found upon the real property at the time service is attempted who is either an employee or agent of the occupant or a member of the occupant's household. If the levying officer is unable to serve such an occupant at the time service is attempted, the levying officer is not required to make any further attempts to serve an occupant.

(f) If the property described in the notice of sale consists of more than one distinct lot, parcel, or governmental subdivision and any of the lots, parcels, or governmental subdivisions lies with relation to any of the others so as to form one or more continuous, unbroken tracts, only one service pursuant to subdivision (e) and posting pursuant to paragraph (2) of subdivision (d) need be made as to each continuous, unbroken tract.

(g) Notice of sale shall be published pursuant to Section 6063 of the Government Code, with the first publication at least 20 days prior to the time of sale, in a newspaper of general circulation published in the city in which the real property or a part thereof is situated if any part thereof is situated in a city or, if not, in a newspaper of general circulation published in the judicial district in which the real property or a part thereof is situated. If no newspaper of general circulation is published in the city or judicial district, notice of sale shall be published in a newspaper of general circulation in the county in which the real property or a part thereof is situated.

(h) Not earlier than 30 days after the date of levy, the judgment creditor shall determine the names of all persons having liens on the real property on the date of levy that are of record in the office of the county recorder and shall instruct the levying officer to mail notice of sale to each such person at the address used by the county recorder for the return of the instrument creating the person's lien after recording. The levying officer shall mail notice to each such person, at the address given in the instructions, not less than 20 days before the date of sale.

Comment. Subdivision (d)(1) of Section 701.540 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial district). *Cf.* Gov't Code § 71042.5 (preservation of judicial districts for purpose of publication).

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

SEC. ___. Section 904.5 of the Code of Civil Procedure is amended to read:

904.5. Appeals from the small claims division of a ~~municipal or~~ superior court shall be governed by the Small Claims Act (Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1).

Comment. Section 904.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 1052 of the Code of Civil Procedure is repealed.

~~1052. The clerk of a municipal court may keep among the records of the court a register of civil actions in which shall be entered the title of the action commenced in that court, with brief notes under it, from time to time, of all papers filed and proceedings had therein.~~

Comment. Section 1052 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Gov't Code §§ 69845 (register of actions in superior court), 69845.5 (alternative to maintaining register of actions in superior court). On unification of the municipal and superior courts in a county, the records of the municipal court become records of the superior court. Cal. Const. art. VI, § 23(c)(3); Gov't Code § 70212(c).

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

SEC. ___. Section 1052.5 of the Code of Civil Procedure is repealed.

~~1052.5. In lieu of maintaining a register of actions as described in Section 1052, the clerk of the municipal court may maintain a register of actions by means of photographing, microphotographing, or mechanically or electronically storing the whole content of all papers and records, or any portion thereof, as will constitute a memorandum, necessary to the keeping of a register of actions so long as the completeness and chronological sequence of the register are not disturbed.~~

~~All such reproductions shall be placed in convenient, accessible files, and provision shall be made for preserving, examining, and using them.~~

~~Any photograph, microphotograph, or photocopy that is made pursuant to this section shall be made in such manner and on such paper as will comply with the minimum standards of quality approved therefor by the National Bureau of Standards.~~

Comment. Section 1052.5 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Gov't Code §§ 69845 (register of actions in superior court), 69845.5 (alternative to maintaining register of actions in superior court).

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

SEC. ___. Section 1060 of the Code of Civil Procedure is amended to read:

1060. Any person interested under a written instrument, excluding a will or a trust, or under a contract, or who desires a declaration of his or her rights or duties with respect to another, or in respect to, in, over or upon property, or with respect to the location of the natural channel of a watercourse, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action or cross-complaint in the superior court ~~or in the municipal court to the extent allowed pursuant to Article 1 (commencing with Section 85) of Chapter 5.1 of Title 1 of Part 1~~ for a declaration of his or her rights and duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract. He or she may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of these rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and the declaration shall have the force of a final judgment. The declaration may

be had before there has been any breach of the obligation in respect to which said declaration is sought.

Comment. Section 1060 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 1068 of the Code of Civil Procedure is amended to read:

1068. (a) A writ of review may be granted by any ~~court, except a municipal court~~, court when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

(b) The appellate division of the superior court may grant a writ of review directed to the superior court in a limited civil case or in a misdemeanor or infraction case. Where the appellate division grants a writ of review directed to the superior court, the superior court is an inferior tribunal for purposes of this chapter.

Comment. Section 1068 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 1085 of the Code of Civil Procedure is amended to read:

1085. (a) A writ of mandate may be issued by any ~~court, except a municipal court~~, court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by such inferior tribunal, corporation, board, or person.

(b) The appellate division of the superior court may grant a writ of mandate directed to the superior court in a limited civil case or in a misdemeanor or infraction case. Where the appellate division grants a writ of review directed to the superior court, the superior court is an inferior tribunal for purposes of this chapter.

Comment. Section 1085 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 1103 of the Code of Civil Procedure is amended to read:

1103. (a) A writ of prohibition may be issued by any ~~court, except municipal courts~~, court to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

(b) The appellate division of the superior court may grant a writ of prohibition directed to the superior court in a limited civil case or in a misdemeanor or infraction case. Where the appellate division grants a writ of review directed to the superior court, the superior court is an inferior tribunal for purposes of this chapter.

Comment. Section 1103 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 1132 (amended). Confession of judgment

SEC. ___. Section 1132 of the Code of Civil Procedure is amended to read:

1132. (a) A judgment by confession may be entered without action either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this chapter. Such judgment may be entered in any superior court ~~having jurisdiction for like amounts~~.

(b) A judgment by confession shall be entered only if an attorney independently representing the defendant signs a certificate that the attorney has examined the proposed judgment and has advised the defendant with respect to the waiver of rights and defenses under the confession of judgment procedure and has advised the defendant to utilize the confession of judgment procedure. The certificate shall be filed with the filing of the statement required by Section 1133.

Comment. Subdivision (a) of Section 1132 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 1141.11 of the Code of Civil Procedure is amended to read:

1141.11. (a) In each superior court with ~~10 or more judges, or~~ 18 or more judges ~~in a county in which there is no municipal court~~, all at-issue civil actions pending on or filed after the operative date of this chapter, other than a limited civil case, shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifty thousand dollars ($50,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with ~~less than 10 judges, or~~ fewer than 18 judges ~~in a county in which there is no municipal court~~, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifty thousand dollars ($50,000) for each plaintiff, which decision shall not be appealable.

(c) Each ~~municipal court, or~~ superior court ~~in a county in which there is no municipal court,~~ may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue limited civil cases pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. This section does not apply to any action in small claims court, or to any action maintained pursuant to Section 1781 of the Civil Code or Section 1161 of this code.

(d) In each court that has adopted judicial arbitration pursuant to subdivision (c), all limited civil cases pending on or after July 1, 1990, that involve a claim for money damages against a single defendant as a result of a motor vehicle collision, except those heard in the small claims division, shall be submitted to arbitration within 120 days of the filing of the defendant's answer to the complaint (except as may be extended by the court for good cause) before an arbitrator selected by the court, subject to disqualification for cause as specified in Sections 170.1 and 170.6.

The court may provide by local rule for the voluntary or mandatory use of case questionnaires, established under Section 93, in any proceeding subject to these provisions. Where local rules provide for the use of case questionnaires, the questionnaires shall be exchanged by the parties upon the defendant's answer and completed and returned within 60 days.

For the purposes of this subdivision, the term "single defendant" means (1) an individual defendant, whether a person or an entity, (2) two or more persons covered by

the same insurance policy applicable to the motor vehicle collision, or (3) two or more persons residing in the same household when no insurance policy exists that is applicable to the motor vehicle collision. The naming of one or more cross-defendants, not a plaintiff, shall constitute a multiple- defendant case not subject to the provisions of this subdivision.

(e) No local rule of a superior court providing for judicial arbitration may dispense with the conference required pursuant to Section 1141.16.

Comment. Subdivisions (a)-(c) of Section 1141.11 are amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ____. Section 1141.12 of the Code of Civil Procedure is amended to read:

1141.12 (a) In each superior court in which arbitration ~~may be had~~ is required pursuant to subdivision (a) ~~or (b)~~ of Section 1141.11~~,~~ or pursuant to a local rule adopted under subdivision (b) of Section 1141.11, upon stipulation of the parties, any at-issue civil actions shall be submitted to arbitration regardless of the amount in controversy.

(b) In all other superior ~~and municipal~~ courts, the Judicial Council shall provide by rule for a uniform system of arbitration of the following causes:

(i) Any cause upon stipulation of the parties.

(ii) Upon filing of an election by the plaintiff, any cause in which the plaintiff agrees that the arbitration award shall not exceed the amount in controversy as specified in Section 1141.11.

(c) Any election by a plaintiff shall be filed no sooner than the filing of the at-issue memorandum, and no later than 90 days before trial, or at a later time if permitted by the court.

Comment. Subdivision (a) of Section 1141.12 is amended to clarify its application. This is declaratory of existing law.

Subdivision (b) is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 1141.29 (repealed). Judicial Council report

SEC. ___. Section 1141.29 of the Code of Civil Procedure is repealed.

~~1141.29. The Judicial Council shall, by rule, require each superior and municipal court subject to the provisions of this chapter to file with it such data as will enable it to provide, on or before January 1, 1984, a report to the Governor and the Legislature which shall serve as a comprehensive review of the effectiveness of this chapter, and which shall include recommendations for future action.~~

~~The Judicial Council, in consultation with the Department of Finance and the Auditor General, shall include in its study an estimate of the potential costs or savings, if any, should the program be continued beyond the life of the act.~~

Comment. Section 1141.29 is repealed as obsolete, because the report required by this section was due in 1984.

Code Civ. Proc. § 1208.5 (amended). Satisfaction of liens for expense of keeping abused, abandoned or neglected animals

SEC. ___. Section 1208.5 of the Code of Civil Procedure is amended to read:

1208.5. Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy such lien as follows: If such lien is not discharged and satisfied, by the person responsible, within three days after the

obligation becomes due, then the person holding such lien may resort to the proper court to satisfy the claim; or ~~he~~ may, three days after the charges against the property become due, ~~may~~ sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no paper published in the county, then by posting notices of the sale in three of the most public places in the town or ~~judicial district~~ county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury.

Comment. Section 1208.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial district).

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

SEC. ___. Section 1281.5 of the Code of Civil Procedure is amended to read:

1281.5. (a) Any person who proceeds to record and enforce a claim of lien by commencement of an action pursuant to Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, shall not thereby waive any right of arbitration which that person may have pursuant to a written agreement to arbitrate, if, in filing an action to enforce the claim of lien, the claimant at the same time presents to the court an application that the action be stayed pending the arbitration of any issue, question, or dispute which is claimed to be arbitrable under the agreement and which is relevant to the action to enforce the claim of lien. ~~In a county in which there is a municipal court, the applicant may join with the application for the stay, pending arbitration, a claim of lien otherwise within the jurisdiction of the municipal court.~~

(b) The failure of a defendant to file a petition pursuant to Section 1281.2 at or before the time he or she answers the complaint filed pursuant to subdivision (a) shall constitute a waiver of that party's right to compel arbitration.

Comment. Subdivision (a) of Section 1281.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Code Civ. Proc. § 1420 (amended). Escheat

SEC. ___. Section 1420 of the Code of Civil Procedure is amended to read:

1420. At any time after two years after the death of any decedent who leaves property to which the State is entitled by reason of it having escheated to the State, the Attorney General shall commence a proceeding on behalf of the State in the Superior Court for the County of Sacramento to have it adjudged that the State is so entitled. Such action shall be commenced by filing a petition, which shall be treated as the information elsewhere referred to in this title.

There shall be set forth in such petition a description of the property, the name of the person last possessed thereof, the name of the person, if any, claiming such property, or portion thereof, and the facts and circumstances by virtue of which it is claimed the property has escheated.

Upon the filing of such petition, the court must make an order requiring all persons interested in the estate to appear and show cause, if any they have, within 60 days from the date of the order, why such estate should not vest in the State. Such order must be published at least once a week for four consecutive weeks in a newspaper published in said County of Sacramento, the last publication to be at least 10 days prior to the date set for the hearing. Upon the completion of the publication of such order, the court shall have full and complete jurisdiction over the estate, the property, and the person of everyone having or claiming any interest in the said property, and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate judgment thereon.

If proceedings for the administration of such estate have been instituted, a copy of such order must be filed with the papers in such estate ~~in the office of the county clerk where such proceedings were had~~. If proceedings for the administration of any estate of any such decedent have been instituted and none of the persons entitled to succeed thereto have appeared and made claim to such property or any portion thereof, before the decree of final distribution therein is made, or before the commencement of such proceeding by the Attorney General, or if the court shall find that such persons as have appeared are not entitled to the property of such estate, or any portion thereof, the court shall, upon final settlement of the proceedings for the administration of such estate, after the payment of all debts and expenses of administration, distribute all moneys and other property remaining to the State of California.

In any proceeding brought by the Attorney General under this chapter, any two or more parties and any two or more causes of action may be joined in the same proceedings and in the same petition without being separately stated; and it shall be sufficient to allege in the petition that the decedent left no heirs to take the estate and the failure of heirs to appear and set up their claims in any such proceeding, or in any proceedings for the administration of such estate, shall be sufficient proof upon which to base the judgment in any such proceeding or such decree of distribution.

Where proceedings for the administration of any estate have not been commenced within six months from the death of any decedent the Attorney General may direct the public administrator to commence the same forthwith.

Comment. Section 1420 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Code Civ. Proc. § 1607 (amended). Assertion of interest in unclaimed property

SEC. ___. Section 1607 of the Code of Civil Procedure is amended to read:

1607. When a report is received from the Comptroller General or other proper officer of the United States, the Controller shall prepare and forward a copy thereof to the ~~county~~ clerk of <u>the superior court of</u> each county within this State and the said clerk shall post such copy at the courthouse for a period of 60 days. Any person asserting an interest in property mentioned in the report may elect to claim against the United States under the laws of the United States, in which event and within 90 days following the date of initial posting by the ~~county~~ clerk such person shall notify the State Controller of ~~his~~ <u>the</u> asserted interest and intention to so claim. The Controller shall omit such property from

any claim by the State until such time as the asserted interest may be finally determined against the claimant. Such interest shall not thereafter be asserted against the State.

Comment. Section 1607 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Code Civ. Proc. § 1609 (amended). Commencement of proceeding by Attorney General

SEC. ___. Section 1609 of the Code of Civil Procedure is amended to read:

1609. Within 120 days following the date of initial posting by the ~~county~~ clerk of the superior court, the Attorney General shall commence a proceeding by filing a petition to determine the State's right to custody of all property mentioned in such report and unclaimed within the time and in the manner provided by Section 1607. The proceeding shall be commenced and heard in the superior court in the County of Sacramento and venue shall not be affected by the provisions of Section 401, Code of Civil Procedure.

The petition shall name as respondents all persons known to have been interested and "all persons unknown claiming any title or interest in or to the property described or referred to in the petition." If the records of the United States fail to disclose with reasonable certainty the identity or number of owners or claimants of specific funds or other personal property, or the extent of their interests therein, such persons may be designated and described as a class, to wit, as "all unknown owners or claimants to the funds or property mentioned in or affected by ____," and, as the case may be, the petition shall identify and set forth the court actions or proceedings to the credit of which such funds or other property are held, or the accounts or other identifying references under which they are carried upon the records of the United States. The petition shall describe or refer to the property, and may include one or more items, as the Attorney General may be advised, without prejudice to his right to commence subsequent proceedings relating to other items not included. The petition shall also state the name of the owner and his last address as known or as presumed under this chapter, and shall set forth the facts and circumstances by virtue of which it is claimed that such funds or property are subject to custody by the State. Any number of respondents may be joined whether they reside in the same or different counties, and any number of causes of action may be joined and need not be separately stated.

Comment. Section 1609 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

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

SEC. ___. Section 1710.20 of the Code of Civil Procedure is amended to read:

1710.20. (a) ~~In a county in which there is a municipal court, the application shall be filed in a municipal court in all cases in which the sister state judgment amounts to twenty-five thousand dollars ($25,000) or less. The~~ An application for entry of a

judgment based on a sister state judgment shall be filed in a superior court ~~in all other cases~~.

(b) Subject to the power of the court to transfer proceedings under this chapter pursuant to Title 4 (commencing with Section 392) of Part 2, the proper county for the filing of an application is any of the following:

(1) The county in which any judgment debtor resides.

(2) If no judgment debtor is a resident, any county in this state.

(c) A case in which the sister state judgment amounts to twenty-five thousand dollars ($25,000) or less is a limited civil case.

Comment. Subdivision (a) of Section 1710.20 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 1775.1 of the Code of Civil Procedure is amended to read:

1775.1. (a) As used in this ~~title:~~

~~(1) "Court" means a superior court or municipal court.~~

~~(2) "Mediation"~~ title, "mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(b) Unless otherwise specified in this title or ordered by the court, any act to be performed by a party may also be performed by his or her counsel of record.

Comment. Section 1775.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 2015.3 of the Code of Civil Procedure is amended to read:

2015.3. The certificate of a sheriff, marshal, or the clerk of the superior ~~or municipal~~ court, has the same force and effect as his or her affidavit.

Comment. Section 2015.3 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

CORPORATIONS CODE

Corp. Code § 420 (amended). Transfer of shares

SEC. ___. Section 420 of the Corporations Code is amended to read:

420. Neither a domestic nor foreign corporation nor its transfer agent or registrar is liable:

(a) For transferring or causing to be transferred on the books of the corporation to the surviving joint tenant or tenants any share or shares or other securities issued to two or more persons in joint tenancy, whether or not the transfer is made with actual or constructive knowledge of the existence of any understanding, agreement, condition or evidence that the shares or securities were held other than in joint tenancy or of a breach of trust by any joint tenant.

(b) To a minor or incompetent person in whose name shares or other securities are of record on its books or to any transferee of or transferor to either for transferring the shares or other securities on its books at the instance of or to the minor or incompetent or for the recognition of or dealing with the minor or incompetent as a shareholder or security holder, whether or not the corporation, transfer agent or registrar had notice, actual or

constructive, of the nonage or incompetency, unless a guardian or conservator of the property of the minor or incompetent has been appointed and the corporation, transfer agent or registrar has received written notice thereof.

(c) To any married person or to any transferee of such person for transferring shares or other securities on its books at the instance of the person in whose name they are registered, without the signature of such person's spouse and regardless of whether the registration indicates that the shares or other securities are community property, in the same manner as if such person were unmarried.

(d) For transferring or causing to be transferred on the books of the corporation shares or other securities pursuant to a judgment or order of a court which has been set aside, modified or reversed unless, prior to the registration of the transfer on the books of the corporation, written notice is served upon the corporation or its transfer agent in the manner provided by law for the service of a summons in a civil action, stating that an appeal or other further court proceeding has been or is to be taken from or with regard to such judgment or order. After the service of such notice neither the corporation nor its transfer agent has any duty to register the requested transfer until the corporation or its transfer agent has received a certificate of the ~~county clerk of the county~~ clerk of the court in which the judgment or order was entered or made, showing that the judgment or order has become final.

(e) The Commercial Code shall not affect the limitations of liability set forth in this section. Section 1100 of the Family Code shall be subject to the provisions of this section and shall not be construed to prevent transfers, or result in liability to the corporation, transfer agent or registrar permitting or effecting transfers, which comply with this section.

Comment. Subdivision (a) of Section 420 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

EDUCATION CODE

Educ. Code § 69763.1 (amended). Default on student loan

SEC. ___. Section 69763.1 of the Education Code is amended to read:

69763.1. (a) If a borrower defaults on a guaranteed student loan and the lender's default claim has been paid, the Student Aid Commission shall fulfill the collection efforts required by federal law, which includes initiating a civil suit against the borrower for repayment of the loan.

(b) After the period specified in federal law for commencing action, the amount of the promissory note, plus interest and costs, may be collected by the filing of a certificate requesting judgment pursuant to subdivision (c) or by other appropriate civil action.

(c) If the loan principal, interest, and predefault and collection costs are not paid when due, and there is evidence that the borrower does not intend to pay under the terms of the promissory note or promissory notes, the commission may file in the office of the ~~County~~ Clerk of the Superior Court of Sacramento County, or any other county, a certificate specifying the amount of the loan principal, interest, and predefault and collection costs due, the name and last known address of the individual liable for the amount due, the fact

that the commission has complied with all applicable state and federal laws in the computation of the amount due, and a request that judgment be entered against the individual in the amount of the loan principal, interest, and predefault and collection costs specified in the certificate.

(d) Prior to the filing of the certificate, the commission shall, by mail, notify the individual of the amount that is due and of the opportunity for a hearing. If a hearing is requested, 10 days' notice shall be given of the time and place of the hearing, which shall be held in Sacramento County or, if properly requested, the county of residence of the person requesting the hearing. The hearing shall be conducted by a referee who shall submit findings and recommendations to the director of the commission, or an authorized representative, who shall decide the matter. The decision shall be effective upon notice to the interested parties. The director of the commission, or the authorized representative, may rescind the decision and reconsider the matter for good cause shown at any time within three years after the date the disputed loan first became due, or within one year from the hearing, whichever is later. If no hearing is requested within 15 days after mailing the notice required by this subdivision, the certificate required by subdivision (b) may be filed.

Comment. Subdivision (c) of Section 69763.1 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Educ. Code § 69763.2 (amended). Entry and enforcement of judgment

SEC. ___. Section 69763.2 of the Education Code is amended to read:

69763.2. (a) The ~~county~~ clerk, immediately upon the filing of the certificate specified in Section 69763.1, shall enter a judgment for the people of the State of California against the individual in the amount of the loan principal, interest, and predefault and collection costs listed on the certificate. The ~~county~~ clerk may file the judgment in the book entitled "California Student Aid Commission Judgments."

(b) Execution shall issue upon the judgment specified in subdivision (a) upon request of the Student Aid Commission in the same manner as execution may issue upon other judgments as prescribed in the Code of Civil Procedure.

(c) At least 10 days before executing any writ to collect, the commission shall send notice of the intent to execute upon a writ to the borrower and to any cosigners, by certified mail, to the most recent addresses maintained in the files of the commission. Any person receiving the notice of the intent to execute upon a writ may request a hearing to contest the existence or the amount of the writ.

At the request of the individual, the commission shall conduct a hearing pursuant to Section 69763.1, at which it shall be determined whether the loan principal, interest, and predefault and collection costs in the amount claimed by the commission are due and whether the individual named on the certificate is liable for the amount. If no hearing is requested, the execution shall be commenced for the garnishment of wages, the attachment of property, or other legal collection action.

Comment. Subdivision (a) of Section 69763.2 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or

executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

ELECTIONS CODE

Elec. Code § 13.5 (amended). Filing requirements

SEC. ___. Section 13.5 of the Elections Code is amended to read:

13.5. (a)(1) Notwithstanding subdivision (a) of Section 13, no person shall be considered a legally qualified candidate for any of the offices set forth in subdivision (b) unless that person has filed a declaration of candidacy, nomination papers, or statement of write-in candidacy, accompanied by documentation, including, but not necessarily limited to, certificates, declarations under penalty of perjury, diplomas, or official correspondence, sufficient to establish, in the determination of the official with whom the declaration or statement is filed, that the person meets each qualification established for service in that office by the provision referenced in subdivision (b).

(2) The provision of "documentation," for purposes of compliance with the requirements of paragraph (1), may include the submission of either an original, as defined in Section 255 of the Evidence Code, or a duplicate, as defined in Section 260 of the Evidence Code.

(b) This section shall be applicable to the following offices and qualifications therefor:

(1) For the office of county auditor, the qualifications set forth in Sections 26945 and 26946 of the Government Code.

(2) For the office of county district attorney, the qualifications set forth in Sections 24001 and 24002 of the Government Code.

(3) For the office of county sheriff, the qualifications set forth in Section 24004.3 of the Government Code.

(4) For the office of county superintendent of schools, the qualifications set forth in Sections 1205 to 1208, inclusive, of the Education Code.

(5) For the office of judge of the ~~municipal court, the qualifications set forth in Article 4 (commencing with Section 71140) of Chapter 6 of Title 8 of the Government Code.~~

~~(6) For the office of judge of the~~ superior court, the qualifications set forth in Section 15 of Article VI of the California Constitution.

~~(7)~~ (6) For the office of county treasurer, county tax collector, or county treasurer-tax collector, the qualifications set forth in Section 27000.7 of the Government Code, provided that the board of supervisors has adopted the provisions of that section pursuant to Section 27000.6 of the Government Code.

Comment. Subdivision (b) of Section 13.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Elec. Code § 325 (repealed). Judicial district

SEC. ___. Section 325 of the Elections Code is repealed.

~~325. "Judicial district" includes a municipal court district.~~

Comment. Section 325 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Elec. Code § 327 (amended). Judicial officer

SEC. ___. Section 327 of the Elections Code is amended to read:

327. "Judicial officer" means any Justice of the Supreme Court, justice of a court of appeal, or judge of the superior court~~, or judge of a municipal court~~.

Comment. Section 327 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Elec. Code § 2212 (amended). Report of persons convicted of felonies

SEC. ___. Section 2212 of the Elections Code is amended to read:

2212. ~~(a) As used in this section, "county clerk" does not include "registrar of voters."~~

~~(b) The county clerk, on the basis of the records of courts in the county having jurisdiction of those offenses,~~ The clerk of the superior court of each county, on the basis of the records of the court, shall furnish to the chief elections official of the county, not less frequently than the first day of April and the first day of September of each year, a statement showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the ~~county~~ clerk's last report~~, and who are currently imprisoned~~. The elections official shall, during the first week of April and the first week of September in each year, cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony. The ~~county~~ clerk shall certify the statement under the seal of ~~his or her office~~ the court.

Comment. Section 2212 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

The section is also amended to eliminate certification of which felons remain imprisoned; that determination may not be ascertainable on the basis of court records.

Elec. Code § 8203 (amended). Incumbent as only nominee

SEC. ___. Section 8203 of the Elections Code is amended to read:

8203. In any county ~~or any judicial district~~ in which only the incumbent has filed nomination papers for the office of superior court judge ~~or municipal court judge~~, his or her name shall not appear on the ballot unless there is filed with the elections official, within 10 days after the final date for filing nomination papers for the office, a petition indicating that a write-in campaign will be conducted for the office and signed by 100 registered voters qualified to vote with respect to the office.

If a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by 100 registered voters qualified to vote with respect to the office, is filed with the elections official not less than 83 days before the general election, the name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot.

If, in conformity with this section, the name of the incumbent does not appear either on the primary ballot or general election ballot, the elections official, on the day of the general election, shall declare the incumbent reelected. Certificates of election specified in Section 15401 or 15504 shall not be issued to a person reelected pursuant to this section before the day of the general election.

Comment. Section 8203 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Code Civ. Proc. § 38 (judicial district).

Elec. Code § 11221 (amended). Number of qualified signatures required to qualify recall for ballot

SEC. ___. Section 11221 of the Elections Code is amended to read:

11221. The number of qualified signatures required in order to qualify a recall for the ballot shall be as follows:

(a) In the case of an officer of a city, county, school district, community college district, county board of education, or resident voting district, the number of signatures shall be equal in number to not less than the following percent of the registered voters in the electoral jurisdiction:

(1) Thirty percent if the registration is less than 1,000.

(2) Twenty-five percent if the registration is less than 10,000 but at least 1,000.

(3) Twenty percent if the registration is less than 50,000 but at least 10,000.

(4) Fifteen percent if the registration is less than 100,000 but at least 50,000.

(5) Ten percent if the registration is 100,000 or above.

(b) For purposes of this section, the number of registered voters shall be calculated as of the time of the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, and prior to the finding by the elections official or Secretary of State that no alterations are required in the form of the recall petition pursuant to Section 11042.

(c)(1) In the case of a state officer, including judges of courts of appeal and trial courts, the number of signatures shall be as provided for in subdivision (b) of Section 14 of Article II of the California Constitution. In the case of a judge of a superior ~~or municipal~~ court, which office has never appeared on the ballot since its creation, or did not appear on the ballot at its last election pursuant to Section 8203, the number of signatures shall be as provided in subdivision (b) of Section 14 of Article II of the California Constitution, except that the percentage shall be based on the number of votes cast within the judicial jurisdiction for the countywide office which had the least number of votes in the most recent general election in the county in which the judge holds his or her office.

(2) For purposes of this subdivision, "countywide office" means an elective office wholly within the county which is voted on throughout the county.

(d) In the case of a landowner voting district, signatures of voters owning at least 10 percent of the assessed value of land within the electoral jurisdiction of the officer sought to be recalled.

Comment. Subdivision (c)(1) of Section 11221 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Elec. Code § 13107 (amended). Ballot designations

SEC. ___. Section 13107 of the Elections Code is amended to read:

13107. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior ~~or municipal~~ court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by

a vote of the people, or, in the case of a superior ~~or municipal~~ court judge, was appointed to that office.

(3) No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents. For purposes of this section, all California geographical names shall be considered to be one word. Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 7228, 7423, 7673, 10229, or 10515 of this code.

(b) Neither the Secretary of State nor any other election official shall accept a designation of which any of the following would be true:

(1) It would mislead the voter.

(2) It would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) It abbreviates the word "retired" or places it following any word or words which it modifies.

(4) It uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) It uses the name of any political party, whether or not it has qualified for the ballot.

(6) It uses a word or words referring to a racial, religious, or ethnic group.

(7) It refers to any activity prohibited by law.

(c) If, upon checking the nomination documents, the election official finds the designation to be in violation of any of the restrictions set forth in this section, the election official shall notify the candidate by registered or certified mail return receipt requested, addressed to the mailing address appearing on the candidate's nomination documents.

(1) The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation.

(2) In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (c) or as provided in subdivision (e).

(e) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 98 days prior to the general election, requests in

writing a different designation which the candidate is entitled to use at the time of the request.

(f) In all cases, words so used shall be printed in 8-point roman uppercase and lowercase type except that, if the designation selected is so long that it would conflict with the space requirements of Sections 13207 and 13211, the elections official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971), as amended, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

Comment. Subdivision (a) of Section 13107 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 13109 of the Elections Code is amended to read:

13109. The order of precedence of offices on the ballot shall be as listed below for those offices and measures that apply to the election for which this ballot is provided. Beginning in the column to the left:

(a) Under the heading, PRESIDENT AND VICE PRESIDENT:

Nominees of the qualified political parties and independent nominees for President and Vice President.

(b) Under the heading, PRESIDENT OF THE UNITED STATES:

(1) Names of the presidential candidates to whom the delegates are pledged.

(2) Names of the chairpersons of unpledged delegations.

(c) Under the heading, STATE:

(1) Governor.

(2) Lieutenant Governor.

(3) Secretary of State.

(4) Controller.

(5) Treasurer.

(6) Attorney General.

(7) Insurance Commissioner.

(8) Member, State Board of Equalization.

(d) Under the heading, UNITED STATES SENATOR:

Candidates or nominees to the United States Senate.

(e) Under the heading, UNITED STATES REPRESENTATIVE:

Candidates or nominees to the House of Representatives of the United States.

(f) Under the heading, STATE SENATOR:

Candidates or nominees to the State Senate.

(g) Under the heading, MEMBER OF THE STATE ASSEMBLY:

Candidates or nominees to the Assembly.

(h) Under the heading, COUNTY COMMITTEE:

Members of the County Central Committee.

(i) Under the heading, JUDICIAL:

(1) Chief Justice of California.

(2) Associate Justice of the Supreme Court.

(3) Presiding Justice, Court of Appeal.

(4) Associate Justice, Court of Appeal.
(5) Judge of the Superior Court.
(6) ~~Judge of the Municipal Court.~~
~~(7)~~ Marshal.
(j) Under the heading, SCHOOL:
(1) Superintendent of Public Instruction.
(2) County Superintendent of Schools.
(3) County Board of Education Members.
(4) College District Governing Board Members.
(5) Unified District Governing Board Members.
(6) High School District Governing Board Members.
(7) Elementary District Governing Board Members.
(k) Under the heading, COUNTY:
(1) County Supervisor.
(2) Other offices in alphabetical order by the title of the office.
(*l*) Under the heading, CITY:
(1) Mayor.
(2) Member, City Council.
(3) Other offices in alphabetical order by the title of the office.
(m) Under the heading, DISTRICT:
Directors or trustees for each district in alphabetical order according to the name of the district.
(n) Under the heading, MEASURES SUBMITTED TO THE VOTERS and the appropriate heading from subdivisions (a) through (m), above, ballot measures in the order, state through district shown above, and within each jurisdiction, in the order prescribed by the official certifying them for the ballot.
(*o*) In order to allow for the most efficient use of space on the ballot in counties that use a voting system, as defined in Section 362, the county elections official may vary the order of subdivisions (j), (k), (*l*), (m), and (n) as well as the order of offices within these subdivisions. However, the office of Superintendent of Public Instruction shall always precede any school, county, or city office, and state measures shall always precede local measures.

Comment. Subdivision (i) of Section 13109 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Elec. Code § 13111 (amended). Order of candidates names

SEC. ___. Section 13111 of the Elections Code is amended to read:
13111. Candidates for each office shall be printed on the ballot in accordance with the following rules:
(a) The names of presidential candidates to whom candidates for delegate to the national convention are pledged, and the names of chairpersons of groups of candidates for delegate expressing no preference, shall be arranged on the primary election ballot by the Secretary of State by the names of the candidates in accordance with the randomized alphabet as provided for in Section 13112 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.
(b) The names of the pairs of candidates for President and Vice President shall be arranged on the general election ballot by the Secretary of State by the names of the

candidates for President in accordance with the randomized alphabet as provided for in Section 13112 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the pair appearing first in the last preceding Assembly district shall be placed last, the order of the other pairs remaining unchanged.

(c) In the case of all other offices, the candidates for which are to be voted on throughout the state, the Secretary of State shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112 for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(d) If the office is that of Representative in Congress or member of the State Board of Equalization, the Secretary of State shall arrange the names of candidates for the office in accordance with the randomized alphabet as provided for in Section 13112 for that Assembly district that has the lowest number of all the Assembly districts in which candidates are to be voted on. Thereafter, for each succeeding Assembly district in which the candidates are to be voted on, the names appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(e) If the office is that of State Senator or Member of the Assembly, the county elections official shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112, unless the district encompasses more than one county, in which case the arrangement shall be made pursuant to subdivision (i).

(f) If the office is to be voted upon wholly within, but not throughout, one county, as in the case of municipal, district, county supervisor, ~~municipal court,~~ and county central committee offices, the official responsible for conducting the election shall determine the order of names in accordance with the randomized alphabet as provided for in Section 13112.

(g) If the office is to be voted on throughout a single county, and there are not more than four Assembly districts wholly or partly in the county, the county elections official shall determine the order of names in accordance with the randomized alphabet as provided for in Section 13112 for the first supervisorial district. Thereafter, for each succeeding supervisorial district, the name appearing first for each office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged.

(h) If there are five or more Assembly districts wholly or partly in the county, an identical procedure shall be followed, except that rotation shall be by Assembly district, commencing with the Assembly district which has the lowest number.

(i) Except as provided in subdivision (d) of Section 13112, if the office is that of State Senator or Member of the Assembly, and the district includes more than one county, the county elections official in each county shall conduct a drawing of the letters of the alphabet, pursuant to the same procedures specified in Section 13112. The results of the drawing shall be known as a county randomized ballot and shall be used only to arrange the names of the candidates when the district includes more than one county.

(j) If the office is that of Justice of the California Supreme Court or a Court of Appeal, the appropriate elections officials shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112. However, the names of the judicial candidates shall not be rotated among the applicable districts.

Comment. Subdivision (f) of Section 13111 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

EVIDENCE CODE

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

SEC. ___. Section 300 of the Evidence Code is amended to read:

300. Except as otherwise provided by statute, this code applies in every action before the Supreme Court or a court of appeal~~, superior court, or municipal~~ or superior court, including proceedings in such actions conducted by a referee, court commissioner, or similar officer, but does not apply in grand jury proceedings.

Comment. Section 300 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Evid. Code § 452.5 (amended). Computer-generated record of criminal conviction

SEC. ___. Section 452.5 of the Evidence Code is amended to read:

452.5. (a) The official acts and records specified in subdivisions (c) and (d) of Section 452 include any computer-generated official court records, as specified by the Judicial Council which relate to criminal convictions, when the record is certified by a clerk of the ~~municipal or~~ superior court pursuant to Section 69844.5 ~~or 71280.5~~ of the Government Code at the time of computer entry.

(b) An official record of conviction certified in accordance with subdivision (a) of Section 1530 is admissible pursuant to Section 1280 to prove the commission, attempted commission, or solicitation of a criminal offense, prior conviction, service of a prison term, or other act, condition, or event recorded by the record.

Comment. Subdivision (a) of Section 452.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. The reference to former Government Code Section 71280.5 is deleted, because that provision concerned certification and submission of municipal court records relating to criminal convictions. Government Code Section 69844.5 is the comparable superior court provision.

Evid. Code § 1061 (amended). Procedure for assertion of trade secret privilege

SEC. ___. Section 1061 of the Evidence Code is amended to read:

1061. (a) For purposes of this section, and Sections 1062 and 1063:

(1) "Trade secret" means "trade secret," as defined in subdivision (d) of Section 3426.1 of the Civil Code, or paragraph (9) of subdivision (a) of Section 499c of the Penal Code.

(2) "Article" means "article," as defined in paragraph (2) of subdivision (a) of Section 499c of the Penal Code.

(b) In addition to Section 1062, the following procedure shall apply whenever the owner of a trade secret wishes to assert his or her trade secret privilege, as provided in Section 1060, during a criminal proceeding:

(1) The owner of the trade secret shall file a motion for a protective order, or the People may file the motion on the owner's behalf and with the owner's permission. The motion shall include an affidavit based upon personal knowledge listing the affiant's qualifications to give an opinion concerning the trade secret at issue, identifying, without revealing, the alleged trade secret and articles which disclose the secret, and presenting evidence that the secret qualifies as a trade secret under either subdivision (d) of Section 3426.1 of the Civil Code or paragraph (9) of subdivision (a) of Section 499c of the Penal Code. The motion and affidavit shall be served on all parties in the proceeding.

(2) Any party in the proceeding may oppose the request for the protective order by submitting affidavits based upon the affiant's personal knowledge. The affidavits shall be filed under seal, but shall be provided to the owner of the trade secret and to all parties in

the proceeding. Neither the owner of the trade secret nor any party in the proceeding may disclose the affidavit to persons other than to counsel of record without prior court approval.

(3) The movant shall, by a preponderance of the evidence, show that the issuance of a protective order is proper. The court may rule on the request without holding an evidentiary hearing. However, in its discretion, the court may choose to hold an in camera evidentiary hearing concerning disputed articles with only the owner of the trade secret, the People's representative, the defendant, and defendant's counsel present. If the court holds such a hearing, the parties' right to examine witnesses shall not be used to obtain discovery, but shall be directed solely toward the question of whether the alleged trade secret qualifies for protection.

(4) If the court finds that a trade secret may be disclosed during any criminal proceeding unless a protective order is issued and that the issuance of a protective order would not conceal a fraud or work an injustice, the court shall issue a protective order limiting the use and dissemination of the trade secret, including, but not limited to, articles disclosing that secret. The protective order may, in the court's discretion, include the following provisions:

(A) That the trade secret may be disseminated only to counsel for the parties, including their associate attorneys, paralegals, and investigators, and to law enforcement officials or clerical officials.

(B) That the defendant may view the secret only in the presence of his or her counsel, or if not in the presence of his or her counsel, at counsel's offices.

(C) That any party seeking to show the trade secret, or articles containing the trade secret, to any person not designated by the protective order shall first obtain court approval to do so:

(i) The court may require that the person receiving the trade secret do so only in the presence of counsel for the party requesting approval.

(ii) The court may require the person receiving the trade secret to sign a copy of the protective order and to agree to be bound by its terms. The order may include a provision recognizing the owner of the trade secret to be a third-party beneficiary of that agreement.

(iii) The court may require a party seeking disclosure to an expert to provide that expert's name, employment history, and any other relevant information to the court for examination. The court shall accept that information under seal, and the information shall not be disclosed by any court except upon termination of the action and upon a showing of good cause to believe the secret has been disseminated by a court-approved expert. The court shall evaluate the expert and determine whether the expert poses a discernible risk of disclosure. The court shall withhold approval if the expert's economic interests place the expert in a competitive position with the victim, unless no other experts are available. The court may interview the expert in camera in aid of its ruling. If the court rejects the expert, it shall state its reasons for doing so on the record and a transcript of those reasons shall be prepared and sealed.

(D) That no articles disclosing the trade secret shall be filed or otherwise made a part of the court record available to the public without approval of the court and prior notice to the owner of the secret. The owner of the secret may give either party permission to accept the notice on the owner's behalf.

(E) Other orders as the court deems necessary to protect the integrity of the trade secret.

(c) A ruling granting or denying a motion for a protective order filed pursuant to subdivision (b) shall not be construed as a determination that the alleged trade secret is or is not a trade secret as defined by subdivision (d) of Section 3426.1 of the Civil Code or

paragraph (9) of subdivision (a) of Section 499c of the Penal Code. Such a ruling shall not have any effect on any civil litigation.

(d) ~~A protective order entered by a municipal court pursuant to this section shall remain in effect in a superior court unless that order is amended or vacated for good cause shown.~~

~~(e)~~ This section shall have prospective effect only and shall not operate to invalidate previously entered protective orders.

Comment. Former subdivision (d) of Section 1061 is deleted to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. On unification of the municipal and superior courts in a county, preexisting records of the municipal court automatically become records of the superior court. Cal. Const. art. VI, § 23(c)(3); Gov't Code § 70212(c).

FAMILY CODE

Fam. Code § 240.5 (repealed). Issuance by municipal court judge upon unavailability of superior court judge

SEC. ___. Section 240.5 of the Family Code is repealed.

~~240.5. Notwithstanding Section 200, a judge of the municipal court may issue an order described in Section 240 when relief cannot be obtained in a timely manner from a judge of the superior court. In such a case, the applicant for the order shall set forth in the affidavit in support of the application for the order the reasons that relief could not be obtained in a timely manner from a judge of the superior court. Jurisdiction for the hearing described in Section 242 and all subsequent proceedings shall be in the superior court.~~

~~Nothing in this section shall be construed to prevent a judge of the municipal court who is serving as a judge of the superior court from issuing an order described in Section 240 without a showing that relief cannot be obtained in a timely manner from a judge of the superior court.~~

Comment. Section 240.5 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Fam. Code § 4252 (amended). Appointment of child support commissioners and Judicial Council standards

SEC. ___. Section 4252 of the Family Code is amended to read:

4252. (a) ~~One or more child support commissioners shall be appointed by the superior court~~ <u>The superior court shall appoint one or more subordinate judicial officers as child support commissioners</u> to perform the duties specified in Section 4251. The child support commissioners' first priority always shall be to hear Title IV-D child support cases. The child support commissioners shall specialize in hearing child support cases, and their primary responsibility shall be to hear Title IV-D child support cases. ~~Child support commissioner positions shall not be subject to the limitation on other commissioner positions imposed upon the counties by Article 13 (commencing with Section 70140) of Chapter 5 of Title 8 of the Government Code. The~~ <u>Notwithstanding Section 71622 of the Government Code, the</u> number of child support commissioner positions allotted to each ~~superior~~ court shall be determined by the Judicial Council in accordance with caseload standards developed pursuant to paragraph (3) of subdivision (b), subject to appropriations in the annual Budget Act.

(b) The Judicial Council shall do all of the following:

(1) Establish minimum qualifications for child support commissioners.

(2) Establish minimum educational and training requirements for child support commissioners and other court personnel that are assigned to Title IV-D child support cases. Training programs shall include both federal and state laws concerning child support and related issues.

(3) Establish caseload, case processing, and staffing standards for child support commissioners on or before April 1, 1997, which shall set forth the maximum number of cases that each child support commissioner can process. These standards shall be reviewed and, if appropriate, revised by the Judicial Council every two years.

(4) Adopt uniform rules of court and forms for use in Title IV-D child support cases.

(5) Offer technical assistance to ~~counties~~ courts regarding issues relating to implementation and operation of the child support commissioner system, including assistance related to funding, staffing, and the sharing of resources between ~~counties~~ courts.

(6) Establish procedures for the distribution of funding to the courts for child support commissioners, family law facilitators pursuant to Division 14 (commencing with Section 10000), and related allowable costs.

(7) Adopt rules that define the exceptional circumstances in which judges may hear Title IV-D child support matters as provided in subdivision (a) of Section 4251.

(8) ~~Convene a workgroup, including representatives of the State Department of Social Services, county district attorneys, child support commissioners, child support advocates, family law facilitators, attorneys engaging in the private practice of family law, custodial and noncustodial parents' organizations, and staff of the Assembly and Senate Judiciary Committees, to advise the Judicial Council in establishing criteria to evaluate the success and identify any failures of the child support commissioner system. The workgroup shall also provide advice on how to establish successful outcomes for the child support commissioner system created pursuant to this article. The Judicial Council shall conduct an evaluation and report the results of the evaluation and its recommendations to the Legislature no later than February 1, 2000. At a minimum, the evaluation shall examine the ability of the child support commissioner system to achieve the goals set forth in Section 4250. The report shall include a fiscal impact statement estimating the costs of implementing the recommendations.~~

~~(9)~~ Undertake other actions as appropriate to ensure the successful implementation and operation of child support commissioners in the counties.

(c) As used in this article, "Title IV-D" means Title IV-D of the federal Social Security Act (42 U.S.C. § 651 *et seq.*).

Comment. Section 4252 is amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Gov't Code § 71622 (subordinate judicial officers).

The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

The section is also amended to delete the reference in subdivision (a) to former Article 13 (commencing with Section 70140) of Chapter 5 of Title 8 of the Government Code.

The section is also amended to delete former subdivision (b)(8) as obsolete.

Subdivision (c) is added for purposes of clarity.

Fam. Code § 6390 (repealed). Domestic violence courts

SEC. ___. Section 6390 of the Family Code is repealed.

~~6390. (a) The Judicial Council shall conduct a descriptive study of the various domestic violence courts established in California and other states. As used in this section,~~

~~"domestic violence courts" means the assignment of civil or criminal cases, or both, involving domestic violence to one department of the superior court or municipal court, consistent with the jurisdiction of those courts. The study shall describe the policies and procedures used in domestic violence courts and provide an analysis and rationale for the common features of these courts. The study shall identify issues and potential obstacles, if any, to be considered in developing and implementing effective domestic violence courts at the local level.~~

~~(b) The Judicial Council shall report to the Legislature no later than March 1, 2000, with respect to the study required by subdivision (a).~~

Comment. Section 6390 is repealed as obsolete.

Fam. Code § 7122 (amended). Declaration of emancipation

SEC. ___. Section 7122 of the Family Code is amended to read:

7122. (a) The court shall sustain the petition if it finds that the minor is a person described by Section 7120 and that emancipation would not be contrary to the minor's best interest.

(b) If the petition is sustained, the court shall forthwith issue a declaration of emancipation, which shall be filed by the ~~county~~ clerk <u>of the court</u>.

(c) A declaration is conclusive evidence that the minor is emancipated.

Comment. Subdivision (b) of Section 7122 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 7134 (amended). Revocation of emancipation

SEC. ___. Section 7134 of the Family Code is amended to read:

7134. If the petition is sustained, the court shall forthwith issue an order voiding or rescinding the declaration of emancipation, which shall be filed by the ~~county~~ clerk <u>of the court</u>.

Comment. Section 7134 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 8613 (amended). Appearance by counsel for adoptive parent in military or Red Cross service

SEC. ___. Section 8613 of the Family Code is amended to read:

8613. (a) If the prospective adoptive parent is commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or is engaged in service on behalf of any governmental entity of the United States, or in the American Red Cross, or in any other recognized charitable or religious organization, so that it is impossible or impracticable, because of the prospective adoptive parent's absence from this state, or otherwise, to make an appearance in person, and the circumstances are established by satisfactory evidence, the appearance may be made for the prospective

adoptive parent by counsel, commissioned and empowered in writing for that purpose. The power of attorney may be incorporated in the adoption petition.

(b) Where the prospective adoptive parent is permitted to appear by counsel, the agreement may be executed and acknowledged by the counsel, or may be executed by the absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5 of the Civil Code.

(c) Where the prospective adoptive parent is permitted to appear by counsel, or otherwise, the court may, in its discretion, cause an examination of the prospective adoptive parent, other interested person, or witness to be made upon deposition, as it deems necessary.

The deposition shall be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof shall be borne by the petitioner.

(d) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition shall be filed in the office of the ~~county~~ clerk of the court.

(e) The provisions of this section permitting an appearance through counsel are equally applicable to the spouse of a prospective adoptive parent who resides with the prospective adoptive parent outside this state.

(f) Where, pursuant to this section, neither prospective adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the law otherwise requires that the child execute any document during the course of the hearing, the child may do so through counsel.

(g) Where none of the parties appears, the court may not make an order of adoption until after a report has been filed with the court pursuant to Section 8715, 8807, 8914, or 9001.

Comment. Subdivision (d) of Section 8613 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 8614 (amended). Certificate of adoption

SEC. ___. Section 8614 of the Family Code is amended to read:

8614. Upon the request of the adoptive parents or the adopted child, a ~~county~~ clerk of the superior court may issue a certificate of adoption that states the date and place of adoption, the birthday of the child, the names of the adoptive parents, and the name the child has taken. Unless the child has been adopted by a stepparent or by a relative, as defined in subdivision (c) of Section 8714.7, the certificate shall not state the name of the birth parents of the child.

Comment. Section 8614 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 8702 (amended). Statement to birth parents at time of relinquishment

SEC. ___. Section 8702 of the Family Code is amended to read:

8702. (a) The department shall adopt a statement to be presented to the birth parents at the time a relinquishment is signed and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner and in words calculated to ensure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parents of a child who is the subject of an adoption petition all of the following facts:

(1) It is in the child's best interest that the birth parent keep the department or licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep an address current with the department or licensed adoption agency to whom the child was relinquished for adoption in order to permit a response to inquiries concerning medical or social history.

(3) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to request the department or the licensed adoption agency to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

(4) The birth parent may change the decision whether to permit disclosure of the birth parent's name and address, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department or to the licensed adoption agency that joined in the adoption petition.

(5) The relinquishment will be filed in the office of the ~~county clerk of the county~~ clerk of the court in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceeding, their attorneys, and the department, except upon order of a judge of the superior court.

(b) The department shall adopt a form to be signed by the birth parents at the time the relinquishment is signed, which shall provide as follows:

"Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

/__/ YES /__/ NO /__/ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE."

Comment. Subdivision (a)(5) of Section 8702 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 8714.5 (amended). Adoption by relatives

SEC. ___. Section 8714.5 of the Family Code is amended to read:

8714.5. (a) The Legislature finds and declares the following:

(1) It is the intent of the Legislature to expedite legal permanency for children who cannot return to their parents and to remove barriers to adoption by relatives of children

who are already in the dependency system or who are at risk of entering the dependency system.

(2) This goal will be achieved by empowering families, including extended families, to care for their own children safely and permanently whenever possible, by preserving existing family relationships, thereby causing the least amount of disruption to the child and the family, and by recognizing the importance of sibling and half-sibling relationships.

(b) A relative desiring to adopt a child may for that purpose file a petition in the county in which the petitioner resides. Where a child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and thereafter has been freed for adoption by the juvenile court, the petition may be filed either in the county where the petitioner resides or in the county where the child was freed for adoption.

(c) Upon the filing of a petition for adoption by a relative, the ~~county~~ clerk of the court shall immediately notify the State Department of Social Services in Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(d) If the adopting relative has entered into a postadoption contact agreement with the birth parent as set forth in Section 8714.7, the agreement, signed by the participating parties, shall be attached to and filed with the petition for adoption under subdivision (b).

(e) The caption of the adoption petition shall contain the name of the relative petitioner. The petition shall state the child's name, sex, and date of birth.

(f) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioner shall notify the court of any petition for adoption. The guardianship proceeding shall be consolidated with the adoption proceeding.

(g) The order of adoption shall contain the child's adopted name and, if requested by the adopting relative, or if requested by the child who is 12 years of age or older, the name the child had before adoption.

(h) For purposes of this section, "relative" means an adult who is related to the child or the child's half-sibling by blood or affinity, including all relatives whose status is preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.

Comment. Subdivision (c) of Section 8714.5 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 8818 (amended). Statement to birth parents at time of consent

SEC. ___. Section 8818 of the Family Code is amended to read:

8818. (a) The department shall adopt a statement to be presented to the birth parents at the time the consent to adoption is signed and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner and in words calculated to ensure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parent of a child who is the subject of an adoption petition all of the following facts:

(1) It is in the child's best interest that the birth parents keep the department informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep an address current with the department in order to permit a response to inquiries concerning medical or social history.

(3) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to request the department to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

(4) The birth parent may change the decision whether to permit disclosure of the birth parent's name and address, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department.

(5) The consent will be filed in the office of the ~~county clerk of the county~~ clerk of the court in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceeding, their attorneys, and the department, except upon order of a judge of the superior court.

(b) The department shall adopt a form to be signed by the birth parents at the time the consent to adoption is signed, which shall provide as follows:

"Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, or the licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

/__/ YES /__/ NO /__/ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE."

Comment. Subdivision (a)(5) of Section 8818 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 9200 (amended). Confidentiality of records; certificate of adoption

SEC. ___. Section 9200 of the Family Code is amended to read:

9200. (a) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition filed in the office of the ~~county~~ clerk of the court pursuant to this part is not open to inspection by any person other than the parties to the proceeding and their attorneys and the department, except upon the written authority of the judge of the superior court. A judge of the superior court may not authorize anyone to inspect the petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, or power of attorney or deposition or any portion of any of these documents, except in exceptional circumstances and for good cause approaching the necessitous. The petitioner may be required to pay the expenses for preparing the copies of the documents to be inspected.

(b) Upon written request of any party to the proceeding and upon the order of any judge of the superior court, the ~~county~~ clerk of the court shall not provide any documents referred to in this section for inspection or copying to any other person, unless the name of the child's birth parents or any information tending to identify the child's birth parents is deleted from the documents or copies thereof.

(c) Upon the request of the adoptive parents or the child, a ~~county~~ clerk of the court may issue a certificate of adoption that states the date and place of adoption, the child's birth date, the names of the adoptive parents, and the name the child has taken. Unless the child has been adopted by a stepparent, the certificate shall not state the name of the child's birth parents.

Comment. Section 9200 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Fam. Code § 17521 (amended). Order to show cause or notice of motion for judicial review of district attorney's decision

SEC. ___. Section 17521 of the Family Code is amended to read:

17521. The order to show cause or notice of motion described in subdivision (j) of Section 17520 shall be filed and heard in the superior court. ~~If, however, criminal proceedings pursuant to paragraph (4) of subdivision (a) of Section 166 of the Penal Code, relating to a support order, or pursuant to Section 270 of the Penal Code are pending against the applicant in the municipal court, in a county in which there is a municipal court, an order to show cause or notice of motion for judicial review of the district attorney's decision not to issue a release may be filed and heard in that court.~~

Comment. Section 17521 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

FISH AND GAME CODE

Fish & Game Code § 210 (amended). Publication and distribution of regulations

SEC. ___. Section 210 of the Fish and Game Code is amended to read:

210. (a) The commission shall provide copies of the regulations added, amended, or repealed pursuant to subdivision (e) of Section 206, subdivision (e) of Section 207, and subdivision (d) of Section 208 to each county clerk, each district attorney, and each judge of ~~a municipal court or of~~ the superior court ~~in a county in which there is no municipal court,~~ in the state.

(b) The commission and the department may do anything that is deemed necessary and proper to publicize and distribute regulations so that persons likely to be affected will be informed of them. The failure of the commission to provide any notice of its regulations, other than by filing them in accordance with Section 215, shall not impair the validity of the regulations.

(c) The department or the license agent may give a copy of the current applicable published regulations to each person issued a license at the time the license is issued.

(d) Notwithstanding any other provision of law, the commission and the department may contract with private entities to print regulations and other regulatory and public information. Printing contracts authorized by this subdivision and for which no state funds are expended are not subject to Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, except for Article 2 (commencing with Section 10295) of Chapter 2.

Comment. Subdivision (a) of Section 210 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

FOOD AND AGRICULTURAL CODE

Food & Agric. Code § 30801 (amended). Issuance of dog licenses

SEC. ___. Section 30801 of the Food and Agricultural Code is amended to read:

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The dog licenses shall be:

(1) Stamped with the name of the county and the year of issue.

(2) Unless the board of supervisors designates the animal control department to issue the licenses, issued by the county clerk directly or through judges of ~~municipal courts or~~ the superior court ~~in a county in which there is no municipal court~~, to owners of dogs, that make application.

(b) The licenses shall be issued for a period of not to exceed two years.

(c) In addition to the authority provided in subdivisions (a) and (b), a license may be issued, as provided by this section, by a board of supervisors for a period not to exceed three years for dogs that have attained the age of 12 months, or older, and who have been vaccinated against rabies. The person to whom the license is to be issued pursuant to this subdivision may choose a license period as established by the board of supervisors of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

Comment. Subdivision (a)(2) of Section 30801 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Food & Agric. Code § 31503 (amended). Complaint by person damaged

SEC. ___. Section 31503 of the Food and Agricultural Code is amended to read:

31503. If any person sustains any loss or damage to any livestock or poultry which is caused by a dog, or if any livestock of any person is necessarily destroyed because of having been bitten by a dog, the person may file a complaint ~~with any judge of the municipal~~ in the superior court of the county within which the damage occurred ~~or of the superior court in a county in which there is no municipal court~~. A proceeding under this section is a limited civil case.

Comment. Section 31503 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Food & Agric. Code § 31621 (amended). Hearing on whether dog is potentially dangerous or vicious

SEC. ___. Section 31621 of the Food and Agricultural Code is amended to read:

31621. If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the chief officer of the public pound or animal control department or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, shall petition the ~~municipal~~ superior court ~~within the judicial district~~ of the county wherein the dog is owned or kept~~, or the superior court in a county in which there is no municipal court~~ for a hearing for the purpose of determining whether or not the dog in question should be declared potentially dangerous or vicious. A proceeding under this section is a limited civil case. A city or county may establish an administrative hearing

procedure to hear and dispose of petitions filed pursuant to this chapter. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The chief officer of the public pound or animal control department or head of the local law enforcement agency shall notify the owner or keeper of the dog that a hearing will be held by ~~the municipal court,~~ the superior court~~,~~ or the hearing entity, as the case may be, at which time he or she may present evidence as to why the dog should not be declared potentially dangerous or vicious. The owner or keeper of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. The hearing shall be held promptly within no less than five working days nor more than 10 working days after service of notice upon the owner or keeper of the dog. The hearing shall be open to the public. The court may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. A jury shall not be available. The court may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious and make other orders authorized by this chapter.

Comment. Section 31621 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Food & Agric. Code § 31622 (amended). Determination and appeal

SEC. ___. Section 31622 of the Food and Agricultural Code is amended to read:

31622. (a) After the hearing conducted pursuant to Section 31621, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the court or hearing entity. If a determination is made that the dog is potentially dangerous or vicious, the owner or keeper shall comply with Article 3 (commencing with Section 31641) in accordance with a time schedule established by the chief officer of the public pound or animal control department or the head of the local law enforcement agency, but in no case more than 30 days after the date of the determination or 35 days if notice of the determination is mailed to the owner or keeper of the dog. If the petitioner or the owner or keeper of the dog contests the determination, he or she may, within five days of the receipt of the notice of determination, appeal the decision of the court or hearing entity of original jurisdiction ~~to a court authorized to hear the appeal~~. The fee for filing an appeal shall be twenty dollars ($20), payable to the ~~county~~ clerk <u>of the court</u>. If the original hearing held pursuant to Section 31621 was before a hearing entity other than a court of the jurisdiction, appeal shall be to ~~the municipal court or superior court in a county in which there is no municipal court. If the original hearing was held in the municipal court, appeal shall be to~~ the superior court. If the original hearing was held in the superior court, appeal shall be to the superior court before a judge other than the judge who originally heard the petition. The petitioner or the owner or keeper of the dog shall serve personally or by first-class mail, postage prepaid, notice of the appeal upon the other party.

(b) The court hearing the appeal shall conduct a hearing de novo, without a jury, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The hearing shall be conducted in the same manner and within the time periods set forth in Section 31621 and subdivision (a). The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to

produce records or witnesses. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be potentially dangerous or vicious, the court may establish a time schedule to ensure compliance with this chapter, but in no case more than 30 days subsequent to the date of the court's determination or 35 days if the service of the judgment is by first-class mail.

Comment. Subdivision (a) of Section 31622 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Subdivision (a) is also amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

GOVERNMENT CODE

Gov't Code § 945.3 (amended). Civil action against peace officer or public entity

SEC. ___. Section 945.3 of the Government Code is amended to read:

945.3. No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before a ~~municipal or~~ superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a ~~municipal or~~ superior court.

For the purposes of this section, charges pending before a ~~municipal or~~ superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code.

Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2.

Comment. Section 945.3 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 1770 (amended). Vacancy before expiration of term

SEC. ___. Section 1770 of the Government Code is amended to read:

1770. An office becomes vacant on the happening of any of the following events before the expiration of the term:

(a) The death of the incumbent.

(b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of

his or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.

(c) His or her resignation.

(d) His or her removal from office.

(e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged. ~~However, the office of judge of a municipal court shall not become vacant when, as a result of a change in the boundaries of a judicial district during an incumbent's term, the incumbent ceases to be an inhabitant of the district for which he or she was elected or appointed to serve.~~

(f) His or her absence from the state without the permission required by law beyond the period allowed by law.

(g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.

(h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For the purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.

(j) The decision of a competent tribunal declaring void his or her election or appointment.

(k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.

(*l*) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

Comment. Subdivision (e) of Section 1770 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 3501.5 (amended). Public agency

SEC. ___. Section 3501.5 of the Government Code is amended to read:

3501.5. As used in this chapter, "public agency" does not mean a superior court ~~or municipal court~~.

Comment. Section 3501.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 6103.5 (amended). Filing and service of process fees included in judgment

SEC. ___. Section 6103.5 of the Government Code is amended to read:

6103.5. (a) Whenever a judgment is recovered by a public agency named in Section 6103, either as plaintiff or petitioner or as defendant or respondent, in any action or proceeding to begin, or to defend, which under the provisions of Section 6103 no fee for any official service rendered by the clerk of the court, including, but not limited to, the services of filing, certifying, and preparing transcripts, nor fee for service of process or notices by a sheriff or marshal has been paid, other than in a condemnation proceeding, quiet title action, action for the forfeiture of a fish net or nets or action for the forfeiture

of an automobile or automobiles, the clerk entering the judgment shall include as a part of the judgment the amount of the filing fee, and the amount of the fee for the service of process or notices which would have been paid but for Section 6103, designating it as such. The clerk entering the judgment shall include as part of the judgment the amount of the fees for certifying and preparing transcripts if the court has, in its discretion, ordered those fees to be paid.

(b) When an amount equal to the clerk's fees and the fees for service of process and notices is collected upon a judgment pursuant to subdivision (a), those amounts shall be due and payable to the clerk and the serving officer respectively. The clerk shall ascertain from the serving officer's return the amount of fees he or she would have charged had it not been for the provisions of Section 6103. Remittances of the amounts so due shall be made within 45 days by the fiscal officer of the plaintiff or petitioner or respondent or defendant in the action or proceeding unless those fees have been collected by the levying officer and remitted to the court. No interest shall be computed or charged on the amount of the fee. If the judgment pursuant to subdivision (a) consists only of the amount of the filing fee, it shall be at the public agency's discretion whether to seek collection. If the public agency determines not to seek collection of the filing fee, it shall notify the clerk and no further action as provided for in this section may be brought against the public agency.

(c) If the remittance is not received within 45 days of the filing of a partial satisfaction of judgment in an amount at least equal to the fees due to the clerk or a satisfaction of judgment has been filed, notwithstanding any other provision of law and except as provided in subdivision (b), the court may issue a writ of execution for recovery from the public agency of those fees plus the fees for issuance and execution of the writ plus a fee for administering this section.

(d) The ~~board of supervisors~~ <u>superior court</u> shall set a fee, not to exceed the actual costs of administering this section, up to a maximum of twenty-five dollars ($25), which shall be added to the writ of execution.

Comment. Subdivision (d) of Section 6103.5 is amended to reflect enactment of the Trial Court Funding Act. See Section 77001 (local trial court management).

Gov't Code § 6520 (amended). San Diego Courthouse, Jail, and Related Facilities Development Agency

SEC. ___. Section 6520 of the Government Code is amended to read:

6520. (a) Notwithstanding any other provision of law, the Board of Supervisors of San Diego County and the City Council of the City of San Diego may create by joint powers agreement, the San Diego Courthouse, Jail, and Related Facilities Development Agency, hereinafter referred to as "the agency," which shall have all the powers and duties of a redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code as well as all the powers of a joint powers agency pursuant to this chapter, with respect to the acquisition, construction, improvement, financing, and operation of a combined courthouse-criminal justice facility, including a parking garage, and other related improvements, hereinafter referred to as "the facility."

(b) The agency shall be governed by a board of directors composed of one city council member and one citizen designated by the San Diego City Council; one supervisor and one citizen designated by the San Diego County Board of Supervisors; ~~one citizen designated by the presiding judge of the municipal court, effective during his or her term of presidence; one citizen~~ <u>two citizens</u> appointed by the presiding judge of the superior court effective during his or her term of presidence; the Sheriff of San Diego County; the

president or designee of the San Diego County Bar Association; and one citizen designated by the District Attorney of San Diego County; all of whom shall serve at the pleasure of the appointing power and without further compensation.

(c) The City of San Diego and the County of San Diego shall each have the power of nonconcurrence over any action taken by the board of directors, provided that a motion for reconsideration is made by a member of the board of directors immediately following the vote of the board of directors approving such action, and further provided that the city council or the board of supervisors votes to nullify such action, by a majority vote of its membership, within 30 days.

(d) The county may transfer to the agency county funds in either a Courthouse Temporary Construction Fund or a County Criminal Justice Facility Temporary Construction Fund, or both, to be expended for purposes of the facility.

(e) In addition to those funds, (1) the agency's governing body may allot up to 15 percent of the fines and forfeitures received by the City of San Diego pursuant to Section 1463 of the Penal Code from the service area of the downtown courts, as defined by the agency, for expenditure by the agency for the purposes specified in subdivision (a); (2) the City of San Diego and the County of San Diego may allot to the agency any state or federal funds received for purposes of the facility; and (3) the agency may expend any rent, parking fees, or taxes received on leasehold interests in the facility, for the purposes specified in subdivision (a).

Comment. Subdivision (b) of Section 6520 is amended to reflect unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998.

Gov't Code § 6701 (amended). Holiday falling on Saturday or Sunday

SEC. ___. Section 6701 of the Government Code is amended to read:

6701. If January 1st, February 12th, March 31st, July 4th, September 9th, November 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If November 11th falls upon a Saturday, the preceding Friday is a holiday.

If any holiday designated in Section 6700 falls on a Saturday, the board of supervisors of any county may by ordinance or resolution provide that an alternate day shall be a holiday for the employees of the county, except those employees of the county working as court attaches ~~or as clerks of the superior or municipal courts~~.

Comment. Section 6701 is amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71673 (authority of trial courts to establish terms and conditions of employment).

Gov't Code § 6704 (amended). Saturday as holiday

SEC. ___. Section 6704 of the Government Code is amended to read:

6704. The legislative body of any city or district may, by ordinance or resolution, provide that every Saturday is a holiday as respects the transaction of business in the public offices of such cities or districts except that provision shall be made for the continuance of essential public services such as police and fire protection. ~~The office of the clerk of a municipal court established under the provisions of the Municipal Court Act of 1925 is excluded from the provisions of this section~~.

Comment. Section 6704 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. It is unnecessary to replace the reference to the municipal court with a reference to the superior court, because the superior court

is not a public office of a city or district. For transaction of business by the superior court on Saturdays, see Section 6701 (holiday falling on Saturday or Sunday); Code Civ. Proc. §§ 116.250 (small claims court sessions), 134 (court closure on judicial holidays).

Gov't Code § 12989 (amended). Civil action instead of administrative proceeding

SEC. ___. Section 12989 of the Government Code is amended to read:

12989. (a) If an accusation is issued under Section 12981, a complainant, a respondent, or an aggrieved person on whose behalf a complaint is filed may elect, in lieu of an administrative proceeding under Section 12981, to have the claims asserted in the charge adjudicated in a civil action under this part.

(b) An election under this section may be made within 20 days after the service of the accusation, and not later than 20 days after service of the complaint to the respondent. A notice of election shall be filed with the department, and the department shall serve a copy of the notice to the director, the respondent, and the aggrieved person on whose behalf the complaint is filed. The notice shall be filed and served on all parties to the complaint in accordance with the procedures established by Section 12962.

(c) If either party serves a notice of election upon the department, as prescribed, the department shall, within 30 days after service of the notice of the election, dismiss the accusation. The department shall itself, or at its election through the Attorney General, within 30 days of receipt of the notice of election, file a civil action with the proper ~~municipal or~~ superior court ~~of competent jurisdiction~~ in its name or on behalf of the aggrieved person as a real party in interest. In bringing a civil or administrative action, or pursuing subsequent appeals of those actions, the department or the Attorney General shall, in its representation of an aggrieved person's interests, comply with the Rules of Professional Conduct of the State Bar of California. The action may be filed in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to that practice are maintained and administered, or in the county in which the aggrieved person would have resided in the housing accommodation. If the respondent is not found within that county, the action may be filed in the county of the respondent's residence or principal office.

(d) Any person aggrieved with respect to the issues to be determined in a civil action filed under this part may intervene as of right in that civil action.

(e) If an election is not made pursuant to this section, the director shall maintain an administrative proceeding based on the charges in the complaint in accordance with the procedures set forth in Section 12981.

(f) The director or his or her designated representative shall be available for consultation concerning any legal issues raised by the Attorney General that relate to evidentiary or tactical matters relevant to any civil action brought under this part.

Comment. Subdivision (c) of Section 12989 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

For the jurisdictional classification of an action pursuant to this section, see Code Civ. Proc. §§ 85 (limited civil cases) & Comment, 86 (miscellaneous limited civil cases).

Gov't Code § 15422 (amended). Substitute for county public defender

SEC. ___. Section 15422 of the Government Code is amended to read:

15422. Where a county public defender has refused, or is otherwise reasonably unable to represent a person because of conflict of interest or other reason, the State Public Defender is authorized to represent such person, pursuant to a contract with the county which provides for reimbursement of costs, where the person is not financially able to employ counsel and is charged with the commission of any contempt or offense triable in

the superior ~~or municipal courts~~ court at all stages of any proceedings relating to such charge, including restrictions on liberty resulting from such charge. Except in cases of representation under subdivision (d) of Section 15421, the State Public Defender may decline to represent such person by filing a letter with the appropriate court citing Section 15420 of this chapter.

Comment. Section 15422 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 16265.2 (amended). County costs of eligible programs, county costs of justice programs, and general purpose revenues

SEC. ___. Section 16265.2 of the Government Code is amended to read:

16265.2. As used in this chapter:

(a) "County" means a county and a city and county.

(b) "County costs of eligible programs" means the amount of money other than federal and state funds, as reported by the State Department of Social Services to the Department of Finance or as derived from the Controller's "Annual Report of Financial Transactions Concerning Counties of California," that each county spends for each of the following:

(1) The Aid to Families with Dependent Children for Family Group and Unemployed Parents programs plus county administrative costs for each program minus the county's share of child support collections for each program, as described in Sections 10100, 10101, and 11250 of, and subdivisions (a) and (b) of Section 15200 of, the Welfare and Institutions Code.

(2) The county share of the cost of service provided for the In-Home Supportive Services Program, as described in Section 10100, 10101, and 12306 of the Welfare and Institutions Code.

(3) The community mental health program, as described in Section 5705 of the Welfare and Institutions Code.

(4) The county share of the food stamp program, as described in Section 18906.5 of the Welfare and Institutions Code.

(c) "County costs of justice programs" means the amount of money other than federal and state funds, as reported in the Controller's "Annual Report of Financial Transactions Concerning Counties of California," that each county spends for each of the following:

(1) ~~Municipal and superior~~ Superior courts.

(2) District attorney.

(3) Public defender.

(4) Probation.

(5) Correctional facilities.

"County costs of justice programs" does not include any costs eligible for reimbursement to the county pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3.

(d) "General purpose revenues" means revenues received by a county whose purpose is not restricted by state law to a particular purpose or program, as reported in the Controller's "Annual Report of Financial Transactions Concerning Counties of California." "General purpose revenues" are limited to all of the following:

(1) Property tax revenues, exclusive of those revenues dedicated to repay voter approved indebtedness, received pursuant to Part 0.5 (commencing with Section 50) of Division 1 of the Revenue and Taxation Code, or received pursuant to Section 33401 of the Health and Safety Code.

(2) Sales tax revenues received pursuant to Part 1 (commencing the Section 6001) of Division 2 of the Revenue and Taxation Code.

(3) Any other taxes levied by a county.

(4) Fines and forfeitures.

(5) Licenses, permits, and franchises.

(6) Revenue derived from the use of money and property.

(7) Vehicle license fees received pursuant to Section 11005 of the Revenue and Taxation Code.

(8) Trailer coach fees received pursuant to Section 11003.3 of the Revenue and Taxation Code.

(9) Revenues from cigarette taxes received pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code.

(10) Revenue received as open-space subventions pursuant to Chapter 3 (commencing with Section 16140) of Part 1.

(11) Revenue received as homeowners' property tax exemption subventions pursuant to Chapter 2 (commencing with Section 16120) of Part 1.

(12) General revenue sharing funds received from the federal government.

"General purpose revenues" does not include revenues received by a county pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3.

Comment. Subdivision (c)(1) of Section 16265.2 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 20437 (amended). "County peace officer" as including constables, marshals, and deputies

SEC. ___. Section 20437 of the Government Code is amended to read:

20437. "County peace officer" shall also include the constable and each regularly employed deputy constable, marshal and each regularly employed deputy marshal ~~of any judicial district~~ <u>who serves the superior court</u> and he or she shall receive credit for service as a peace officer for any time he or she served as constable or deputy constable of a township <u>or justice court or marshal or deputy marshal of a municipal court</u> in the same county.

The provisions of this section shall not apply to the employees of any contracting agency nor to any such agency unless and until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

Comment. Section 20437 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The section is also amended to reflect elimination of the justice court pursuant to Article VI, Sections 1 and 5(b), of the California Constitution.

Gov't Code § 20440 (amended). County peace officer

SEC. ___. Section 20440 of the Government Code is amended to read:

20440. "County peace officer" shall also include employees of the sheriff employed to attend sessions of the superior or <u>former</u> municipal courts and preserve order in the courtrooms, to guard and maintain the security of prisoners during court appearances, or to summon jurors and take responsibility for them while they are deliberating or absent from the courtroom. It shall not include persons employed as clerks, typists, teachers, instructors or psychologists.

This section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474 or by express provision in its contract with the board.

Comment. Section 20440 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 23220 (amended). Effect of boundary change on pending cases

SEC. ___. Section 23220 of the Government Code is amended to read:

23220. On and after the effective date of the boundary change, the superior court ~~and the municipal courts~~ in each affected county shall retain jurisdiction in all cases pending in a session of ~~those courts~~ that court.

Comment. Section 23220 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 23296 (repealed). Effect of boundary change on municipal court districts

SEC. ___. Section 23296 of the Government Code is repealed.

~~23296. Those municipal court districts in the transferring county which are located within the boundaries of the territory which is transferred immediately prior to its transfer shall continue in existence for all purposes with the same name, judges, officers, attaches, and other employees.~~

Comment. Section 23296 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 23396 (amended). Superior court officers, attachés and other employees

SEC. ___. Section 23396 of the Government Code is amended to read:

23396. ~~The presiding or sole judge of the superior court in a proposed county may appoint officers, attaches, and other employees as are necessary to assist the court in the performance of its duties. Preference~~ The Trial Court Employment Protection and Governance Act applies to the superior court and superior court employees in a proposed county, except that preference in appointment shall be given to those persons serving a session of the superior court located within the boundaries of the proposed county immediately prior to its creation.

Comment. Section 23396 is amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71620(a) (job classifications and appointments), 71640-71645 (employment selection and advancement).

Gov't Code § 23398 (repealed). Effect of creating new county on municipal court districts

SEC. ___. Section 23398 of the Government Code is repealed.

~~23398. Those municipal court districts in the affected county or counties which are located within the boundaries of the proposed county immediately prior to its creation shall continue in existence for all purposes in the proposed county with the same name, judges, officers, attaches, and other employees.~~

Comment. Section 23398 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 23579 (repealed). Effect of consolidating counties on municipal court districts

SEC. ___. Section 23579 of the Government Code is repealed.

~~23579. Those municipal court districts in the affected counties immediately prior to consolidation shall continue in existence for all purposes in the consolidated county with the same name, judges, officers, attaches, and other employees.~~

Comment. Section 23579 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 25100.5 (amended). Clerk of the board of supervisors

SEC. ___. Section 25100.5 of the Government Code is amended to read:

25100.5. The board of supervisors of any county may provide by ordinance that the clerk of the board of supervisors may be appointed by the board in the same manner as other county officers are appointed. In such counties, the county clerk is not ex officio clerk of the board of supervisors.

The clerk of the board of supervisors shall perform those duties prescribed by law for the county clerk as ex officio clerk of the board of supervisors or for the clerk of the board of supervisors and such additional duties as the board of supervisors shall prescribe by ordinance. Such a person may perform all the duties vested in the county clerk other than those vested in the county clerk as ~~ex officio clerk of the superior court or~~ registrar of voters and may take acknowledgments and administer and certify oaths in the performance of such person's official duties.

Comment. Section 25100.5 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 26608.3 (amended). Service of writs, notices and other process by marshal in Shasta County

SEC. ___. Section 26608.3 of the Government Code is amended to read:

26608.3. (a) In Shasta County, the board of supervisors by ordinance or resolution may transfer from the sheriff to the marshal of the Shasta County ~~Municipal~~ Superior Court the duty to serve all writs, notices and other process issued by any state court, or other competent authority.

(b) After adoption of the ordinance or resolution pursuant to subdivision (a), and notwithstanding any other provision of law, in Shasta County the marshal shall have the duty to serve all writs, notices and other process issued by any state court or other competent authority, and the sheriff shall be relieved of any obligation imposed by Section 26608 and any liability imposed by Section 26663 or 26664.

(c) Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process and notices in the manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace officer to serve warrants of arrest or other process specifically directed by a court to the sheriff or any other peace officer.

Comment. Subdivision (a) of Section 26608.3 is amended to reflect unification of the municipal and superior courts in Shasta County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998.

Gov't Code § 26608.4 (repealed). Service of writs, notices and other process in Santa Barbara County

SEC. ___. Section 26608.4 of the Government Code is repealed.

~~26608.4. (a) In Santa Barbara County, the board of supervisors by ordinance or resolution may transfer from the sheriff to the marshal of the Santa Barbara County Municipal Courts, the duty to serve all writs, notices, and other process issued by any state court or other competent authority.~~

~~(b) After adoption of the ordinance or resolution pursuant to subdivision (a), and notwithstanding any other provision of law, in Santa Barbara County the marshal, as provided in the ordinance or resolution, shall have the duty to serve all writs, notices, or other process issued by any state court or other competent authority, and the sheriff shall be relieved of any obligation imposed by Section 26608 and any liability imposed by Section 26663 or 26664.~~

~~(c) Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process and notices in the manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace officer to serve warrants of arrest or other process specifically directed by a court to the sheriff or any other peace officer.~~

Comment. Section 26608.4 is repealed to reflect elimination of the marshal's office as a result of consolidation with the sheriff's office in Santa Barbara County, effective January 1, 1997.

Gov't Code § 26608.5 (repealed). Service of writs, notices and other process in Glenn County

SEC. ___. Section 26608.5 of the Government Code is repealed.

~~26608.5. (a) In Glenn County, the board of supervisors by ordinance or resolution may transfer from the sheriff to the marshal of the Glenn County Municipal Court the duty to serve all writs, notices, and other process issued by any state court, or other competent authority.~~

~~(b) After adoption of the ordinance or resolution pursuant to subdivision (a), and notwithstanding any other provision of law, in Glenn County the marshal shall have the duty to serve all writs, notices, and other process issued by any state court or other competent authority, and the sheriff shall be relieved of any obligation imposed by Section 26608 and any liability imposed by Section 26663 or 26664.~~

~~(c) Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process and notices in the manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace officer to serve warrants of arrest or other process specifically directed by a court to the sheriff or any other peace officer.~~

Comment. Section 26608.5 is repealed to reflect elimination of the marshal's office and the transfer of its functions to the sheriff's office in Glenn County, effective August 17, 1999.

Gov't Code § 26625 (amended). Short title

SEC. ___. Section 26625 of the Government Code is amended to read:

26625. ~~(a)~~ This article shall be known and may be cited as the Contra Costa County Court Services Consolidation Act of 1988.

~~(b) Notwithstanding any other provision of law, the Board of Supervisors of Contra Costa County may find, after holding a public hearing on the issue, that cost savings can be realized by consolidation of court-related services provided by the marshal and sheriff within that county. If such a finding is made, there shall be conducted among all of the~~

~~judges of the superior and municipal courts of that county an election to determine the agency, either the marshal or sheriff, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast, provided that the total number of votes cast exceeds 50 percent of the number of superior and municipal judges in the county, by at least one vote. The registrar of voters shall administer that election and tabulate the results thereof. The results of the election shall be reported within 15 days following the election period by the registrar of voters to the board of supervisors and to the judges of the superior and municipal courts of that county.~~

~~The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by a majority of the judges of the superior and municipal courts of that county in that election. If an election is not conducted within 90 days of notification of the board of supervisors' finding, or if the results of the election are evenly divided, the board of supervisors of that county shall determine under which agency, either the marshal or the sheriff, court-related services shall be consolidated, and shall proceed to implement that consolidation as if on the basis of majority vote of the judges of the superior and municipal courts of that county.~~

Comment. Section 26625 is amended to reflect elimination of the marshal's office as a result of consolidation with the sheriff's office in Contra Costa County, effective August 30, 1988.

Gov't Code § 26625.1 (repealed). Operation of Gov't Code §§ 26625.2-26625.10

SEC. ___. Section 26625.1 of the Government Code is repealed.

~~26625.1. Sections 26625.2 to 26625.10, inclusive, shall become operative only if the sheriff is selected as the agency under which court-related services shall be consolidated, in which case those sections shall become operative upon the vote of the judges of the county so selecting the sheriff.~~

Comment. Section 26625.1 is repealed to reflect consolidation of court-related services in Contra Costa County within the sheriff's office, effective August 30, 1988.

Gov't Code § 26625.2 (amended). Court security bureau

SEC. ___. Section 26625.2 of the Government Code is amended to read:

26625.2. There is a court security bureau within the Contra Costa County Sheriff's Department to serve the superior ~~and municipal courts~~ court. The relationship between the sheriff's department and the court security bureau shall be similar to that which exists between the Sheriff's Department of Contra Costa County and certain cities in the county that contract for police services. ~~The court security bureau shall maintain a branch office in each municipal court district with the exception of the Walnut Creek-Danville Judicial District.~~

Comment. Section 26625.2 is amended to reflect unification of the municipal and superior courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998.

Gov't Code § 26625.3 (amended). Court security oversight committee

SEC. ___. Section 26625.3 of the Government Code is amended to read:

26625.3. There is a Court Security Oversight Committee consisting of ~~three municipal court judges and two~~ five superior court judges ~~in even-numbered years and three superior court judges and two municipal court judges in odd-numbered years elected annually by a majority of their respective benches~~ appointed by the presiding judge. The duties of the committee shall be those prescribed by this article, and include, but are not limited to, the following:

(a) To approve all transfers out of and into the court security bureau.

(b) To approve staffing levels and the recommended budget prior to submission to the ~~board of supervisors~~ Judicial Council.

(c) To approve security measures and plans prepared by the sheriff, through the court security bureau commander.

(d) Notwithstanding any other provisions of law, the sheriff shall provide bailiffing, court security, and prisoner holding in the Superior Court ~~and Municipal Courts~~ of Contra Costa County.

Comment. Section 26625.3 is amended to reflect unification of the municipal and superior courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998.

The section is also amended to reflect enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court operations).

Gov't Code § 26625.4 (amended). Appointing authority

SEC. ___. Section 26625.4 of the Government Code is amended to read:

26625.4. (a) The sheriff shall be the appointing authority for all court security bureau positions and employees.

(b) ~~The incumbent marshal of the Contra Costa County Municipal Court shall become the assistant sheriff (exempt) of the court security bureau upon the operative date of this section and may not be removed except by a four-fifths majority vote of the Court Security Oversight Committee. He or she shall hold the permanent rank of captain in the merit system. Whenever the salary of assistant sheriff is adjusted by the board of supervisors, the salary of assistant sheriff, court security bureau, shall be adjusted in the same amount with the same effective date~~.

~~(c)~~ The selection, appointment, and removal of ~~subsequent~~ management heads of the court security bureau shall be made by a majority vote of the superior court judges of Contra Costa County ~~and majority vote of the municipal court judges of Contra Costa County~~ from a list of qualified lieutenants submitted by the sheriff.

~~(d) The two incumbent assistant marshals in the marshal's office shall become marshals, court security bureau, in the sheriff's department and assigned to the court security bureau upon the operative date of this section and may not be removed except by a four-fifths majority vote of the Court Security Oversight Committee. They shall be allocated to a salary level which is 67 levels on the C5 salary schedule above that of lieutenant in the service of Contra Costa County. Whenever the salary of lieutenant is adjusted by the board of supervisors, the salary of these two individuals shall be adjusted in the same percentage or levels with the same effective date~~.

Comment. Section 26625.4 is amended to reflect unification of the municipal and superior courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998.

The section is also amended to delete obsolete provisions regarding the former incumbent marshal and assistant marshals.

Gov't Code § 26625.10 (repealed). Marshal's office abolished

SEC. ___. Section 26625.10 of the Government Code is repealed.

~~26625.10. The marshal's office is abolished.~~

Comment. Section 26625.10 is repealed to reflect elimination of the marshal's office as a result of consolidation with the sheriff's office in Contra Costa County, effective August 30, 1988.

Gov't Code § 26625.11 (repealed). Operation of Gov't Code §§ 26625.12-26625.15

SEC. ___. Section 26625.11 of the Government Code is repealed.

~~26625.11. Sections 26625.12 to 26625.15, inclusive, shall become operative only if the marshal is selected as the agency under which court-related services shall be consolidated, in which case those sections shall become operative upon the vote of the judges of the county so selecting the marshal.~~

Comment. Section 26625.11 is repealed to reflect consolidation of court-related services in Contra Costa County within the sheriff's office, effective August 30, 1988.

Gov't Code § 26625.12 (repealed). Deputy sheriffs' status

SEC. ___. Section 26625.12 of the Government Code is repealed.

~~26625.12. Deputy sheriffs who become members of the consolidated office shall do so at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of the consolidated court-related services office.~~

Comment. Section 26625.12 is repealed to reflect consolidation of court-related services in Contra Costa County within the sheriff's office, effective August 30, 1988.

Gov't Code § 26625.13 (repealed). Status of sheriff department employees

SEC. ___. Section 26625.13 of the Government Code is repealed.

~~26625.13. Permanent employees of the sheriff's department on the operative date of the consolidation shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the sheriff's department on the operative date of the consolidation shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.~~

Comment. Section 26625.13 is repealed to reflect consolidation of court-related services in Contra Costa County within the sheriff's office, effective August 30, 1988.

Gov't Code § 26625.14 (repealed). Seniority

SEC. ___. Section 26625.14 of the Government Code is repealed.

~~26625.14. All county service or service in the sheriff's department of employees of the sheriff's department on the operative date of the consolidation shall be counted toward seniority in the court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.~~

Comment. Section 26625.14 is repealed to reflect consolidation of court-related services in Contra Costa County within the sheriff's office, effective August 30. 1988.

Gov't Code § 26625.15 (repealed). Peace officer status

SEC. ___. Section 26625.15 of the Government Code is repealed.

~~26625.15. No employee of the sheriff's department on the operative date of the consolidation shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court services under this section.~~

Comment. Section 26625.15 is repealed to reflect consolidation of court-related services in Contra Costa County within the sheriff's office, effective August 30, 1988.

Gov't Code §§ 26630-26637 (repealed). Ventura County Court Services Consolidation Act

SEC. ___. Article 1.5 (commencing with Section 26630) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code is repealed.

Comment. Sections 26630-26637 are repealed to reflect:

(1) Unification of the municipal and superior courts in Ventura County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 10, 1998.

(2) The fact that Article 1.5 is superseded by a negotiated contract between the superior court and the sheriff's department. See Section 77212.5(a) (agreement with sheriff's department regarding court security services).

Gov't Code § 26638.2 (amended). Consolidation of marshal and sheriff departments

SEC. ___. Section 26638.2 of the Government Code is amended to read:

26638.2. Notwithstanding any other provision of law, the Board of Supervisors of the County of Sacramento may, by ordinance, abolish the office of marshal of the municipal court and consolidate the services and personnel of the Sacramento County Marshal's Department into the Sacramento County Sheriff's Department.

Upon the effective date of such a consolidation ordinance, Sections 74194 and 74195 shall cease to be operative, and Sections 26638.3 to ~~26638.12~~ 26638.11, inclusive, shall become operative and shall continue in full force and effect during the period of consolidation. ~~As used in Sections 26638.3 to 26638.12, inclusive, "municipal court" means the Sacramento Municipal Court District.~~

~~This article shall be repealed by operation of law in the event the board of supervisors does not, by June 30, 1986, adopt a consolidation ordinance pursuant to this article.~~

Comment. Section 26638.2 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

The section is also amended to delete the reference to former Section 26638.12.

The section is also amended to reflect adoption of a consolidation ordinance abolishing the marshal's department and consolidating the services and personnel of the marshal's department into the sheriff's department, effective January 1, 1986.

Gov't Code § 26638.4 (amended). Sheriff to provide court-related services

SEC. ___. Section 26638.4 of the Government Code is amended to read:

26638.4. Notwithstanding the provisions of Sections ~~23608, 23665,~~ 26603, 26608, and 26665 ~~and 71260 to 71265, inclusive~~, or any other provision of law, the sheriff shall provide to the superior court within the County of Sacramento ~~and to the Sacramento Municipal Court District~~ all of the following:

(a) Notice and process services, including the service of summons, subpoenas, warrants, and other civil and criminal process.

(b) Court security services, including prisoner transportation services, prisoner escort services, bailiff services, courthouse and other court security services, and the execution of court orders and bench warrants requiring the immediate presence in court of a defendant or witness.

Comment. Section 26638.4 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

The section is also amended to correct references to Sections 23608 and 23665.

Gov't Code § 26638.5 (amended). Notice and process and court security services

SEC. ___. Section 26638.5 of the Government Code is amended to read:

26638.5. The sheriff shall provide, within the limits of the resources at his or her disposal, notice and process and court security services to the superior ~~and municipal courts~~ court of at least as high a quality as were provided preceding the abolition and consolidation. The sheriff shall designate a position assigned to the administration of notice and process service as a court liaison officer whose duty it shall be to advise and confer with the ~~courts~~ court respecting the quality of notice and process services.

~~All notice and process and court security services provided by the sheriff shall be apportioned between the superior and municipal courts in an equitable manner.~~

Comment. Section 26638.5 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

Gov't Code § 26638.6 (amended). Court security services unit

SEC. ___. Section 26638.6 of the Government Code is amended to read:

26638.6. There is hereby created as a separate unit within the sheriff's department a court security services unit, the functions of which shall be to provide to the superior ~~and municipal courts~~ court within Sacramento County prisoner transportation services, prisoner escort services, court control, courthouse and other court building security, bailiff services and the execution of court orders and bench warrants requiring the immediate presence in court of a defendant or witness. All sheriff's personnel responsible for the delivery of these services shall be assigned to the court security services unit. The sheriff shall provide all security services to the ~~courts~~ court through that unit.

Comment. Section 26638.6 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

Gov't Code § 26638.7 (amended). Chief deputy of court security services unit

SEC. ___. Section 26638.7 of the Government Code is amended to read:

26638.7. The court security services unit shall be headed by a chief deputy who reports directly to the sheriff through the undersheriff, and whose administrative offices are situated at such location as the presiding ~~judges~~ judge of the superior ~~and municipal courts~~ court may direct.

The chief deputy shall be exempt from civil service, and shall not be a member of the county's classified service. The chief deputy shall be appointed by the sheriff from among Sacramento County employees who are assigned to the sheriff's department, and who are qualified peace officers. The person appointed chief deputy shall serve in that office at the individual pleasures of the sheriff~~, judges of the superior court,~~ and judges of the ~~municipal~~ superior court. The chief deputy shall be subject to release from that office at the will of either the sheriff~~,~~ or the judges of ~~either~~ the superior ~~or municipal courts~~ court, as reflected by a majority vote of the judges ~~in either court~~. A person released from the office of chief deputy shall be returned to the highest salaried county class which that person occupied preceding his or her appointment to the office of chief deputy. The chief deputy, during the period he or she occupies that office, shall be subject to suspension or dismissal from county employment at the sole discretion of the sheriff, subject to those county standards, procedures, and limitations as are applicable to county employees within the classified service.

Notwithstanding the provisions of the preceding paragraph, the first occupant of the office of chief deputy shall be the person who occupied the office of Sacramento County Marshal immediately preceding the effective date of the abolition of that office and

consolidation. The first occupant shall be subject to release from that office and suspension or dismissal from county employment in accordance with the same terms, conditions, and procedures as are prescribed above. In the event the first occupant of the office of chief deputy is released from that office, he or she shall be assigned, at the discretion of the sheriff, to any existing vacancy in the classes of sheriff's captain, sheriff's lieutenant, sheriff's sergeant or deputy sheriff, at a salary equal to that which he or she was receiving immediately preceding the effective date of release from the chief deputy office. Upon assignment to such a class, the first occupant shall immediately acquire permanent civil service status, and shall thereafter be subject to discipline or other adverse employment action subject to the same regulations and procedures as are applicable to other classified personnel occupying the same class.

The office of chief deputy, court security services, is created as one whose principal function is to serve the superior ~~and municipal courts~~ court, ~~is created by the Legislature as a court position,~~ and is assigned solely for organizational purposes to the sheriff's department in order to promote the efficient utilization of personnel resources and preserve unity of command in the delivery of peace officer services. The chief deputy is an employee of Sacramento County for all purposes.

Comment. Section 26638.7 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

The section is also amended to make clear that the person who occupies the position of chief deputy is a county employee.

Gov't Code § 26638.8 (amended). Written policies

SEC. ___. Section 26638.8 of the Government Code is amended to read:

26638.8. The sheriff, through the chief deputy, court security services, shall prepare and present for approval by the superior ~~and municipal courts~~ court, as expressed by a majority vote ~~by~~ of the judges ~~of each court~~, written policies prescribing procedures and methods for the adequate and prompt delivery of court security services. The policies shall contain such elements as ~~either~~ the court may prescribe, including, but not limited to:

(a) The transportation of prisoners in a manner which assures timely production at court hearings, within the limits of personnel resources at the disposal of the chief deputy, court security services.

(b) The approval by individual superior ~~and municipal~~ court judges of the identity of bailiffs assigned on a regular or continuing basis to the courtrooms of those judges.

(c) The organizational plan for the court security services unit in relation to the allocation of staffing levels to various functions of the court security services unit, within the limits of personnel resources at the disposal of the chief deputy, court security services, including the regular assignment of one bailiff to each permanent sitting judge, commissioner and referee.

(d) The filling with reasonable dispatch of positions which become vacant due to employment termination, leave or incapacity; and, in the event of vacancies caused by the long-term incapacity of a sworn officer, that the sheriff make his or her best effort to assign the vacant position elsewhere within the department in a manner which makes available another sworn officer for court duties.

(e) With the foregoing exceptions, the reservation of discretion to the chief deputy, court security services, to assign, direct, and control the personnel of his or her unit.

Amendments of the policies shall be subject to advance approval by the ~~courts~~ court in the same manner as the ~~courts approve~~ court approves the original policies.

Comment. Section 26638.8 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

Gov't Code § 26638.9 (amended). Complaints, budget, and staffing

SEC. ___. Section 26638.9 of the Government Code is amended to read:

26638.9. The superior ~~and municipal courts~~ court shall bring any complaints regarding the sheriff's performance under this article and any written policies adopted pursuant hereto to the attention of the sheriff, and shall cooperate with the sheriff to resolve them. The ~~courts~~ court shall also actively participate and cooperate in the preparation and presentation of all budget requests for the court security services unit. The budget for the unit shall be prescribed from year to year by the board of supervisors through adoption of the annual budget. During any budget year, the staffing for the unit may be adjusted within budgeted resources and personnel classifications only with the approval of the ~~courts~~ court under policies adopted pursuant to subdivisions (c) and (d) of Section 26638.8.

The sheriff shall not transfer or otherwise divert from the court security services unit personnel or other resources allocated to that unit by the annual final budget approved by the board of supervisors, except on a temporary basis in the event of a sudden and unforeseen emergency requiring the immediate commitment of significant resources in relation to other functions performed by the sheriff.

That organization plan for the court security services unit and the level of staffing and hours of staffing services prescribed therein set forth in that document entitled "Sacramento County Court Security Services Unit, Organization Plan," dated June 1, 1985, on file with the clerk of the Board of Supervisors of the County of Sacramento, shall, at minimum, be maintained during the 1985- 86 fiscal year from and after the effective date of the abolition and consolidation authorized by this article; and the levels of staffing and hours of staffing services shall be subject to modification, increase or decrease by the board of supervisors in future fiscal years.

Comment. Section 26638.9 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

Gov't Code § 26638.10 (amended). Independent review team

SEC. ___. Section 26638.10 of the Government Code is amended to read:

26638.10. In the event that ~~either~~ the superior ~~or municipal~~ court concludes by majority vote of its members that the sheriff has substantially failed to comply with any term of this article or written policies adopted hereunder, ~~that~~ the court may request that the board of supervisors form and fund an independent review team to review the sheriff's compliance with this article or policies and report thereon. The board shall form and fund such review. The review team shall be selected by ~~five~~ four persons who are the presiding ~~judges~~ judge of the ~~superior and municipal courts~~ court, county executive, sheriff and a disinterested ~~public~~ member of the public selected by the board.

(a) The sheriff shall take all necessary reasonable steps to remedy any violation of this article or policies adopted hereunder found by the review team. The failure of the sheriff to take such steps and violations of this article or policies adopted hereunder shall be

reviewable in an action brought by the court requesting formation of the team under Section 1085 of the Code of Civil Procedure.

(b) Any findings by the review team relating to understaffing, insufficient or inadequate facilities, insufficient or inadequate equipment or appliances, or any other matter requiring as a remedy the appropriation or expenditure of public funds by the board of supervisors shall be advisory only, and shall not be enforceable by mandate or any other judicial proceeding against the county or board of supervisors.

The provisions of this section shall not be deemed to constitute an exclusive remedy, an administrative remedy which must be exhausted or to otherwise bar any other remedy which may be available to the ~~courts~~ court under this article or any other laws for a violation of the provisions of this article or written policies adopted hereunder.

Comment. Section 26638.10 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

Gov't Code § 26638.11 (amended). No limitation or impairment of power to secure court-related services

SEC. ___. Section 26638.11 of the Government Code is amended to read:

26638.11. Neither this article nor any provision hereof, including Section 26638.10, shall be deemed in any manner to limit or otherwise impair the legal power vested by other laws~~, including Section 68073~~, in the superior ~~and municipal court~~s court within Sacramento County to secure proper provision of court-related services.

Comment. Section 26638.11 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

The section is also amended to delete an obsolete reference to Section 68073, which no longer deals with power of the courts to secure the proper provision of court-related services. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Gov't Code § 26638.12 (added). Repeal of article

SEC. ___. Section 26638.12 is added to the Government Code, to read:

26638.12. (a) This article shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Section 26638.12 is added to provide for the automatic repeal of Article 1.7 (commencing with Section 26638.1) in fifteen years.

Gov't Code § 26639 (repealed). Consolidation of court-related services

SEC. ___. Section 26639 of the Government Code is repealed.

~~26639. (a) Notwithstanding any other provision of law, the Board of Supervisors of Los Angeles County may, no later than October 1, 1993, commence public hearings regarding the consolidation of court-related services provided by the marshal and sheriff within the county. Within 30 days of the commencement of public hearings as authorized by this section, the board shall make a final determination as to the most cost-effective and most efficient manner of consolidation.~~

~~(b) Concurrently, an election may be conducted among all of the judges of the superior and municipal courts of that county to provide an advisory recommendation to the board of supervisors as to the preferred agency, either the marshal or the sheriff, under which court-related services and the service of civil and criminal process may be consolidated. The outcome shall be determined by a simple majority of votes cast. The vote of the judges shall then be forwarded to the board of supervisors prior to the close of the public hearing, and the board of supervisors shall take into advisement the recommendation of the judges provided by the election report.~~

Comment. Section 26639 is repealed to reflect elimination of the marshal's office and consolidation of court-related services within the sheriff's office in Los Angeles County, effective January 1, 1994.

Gov't Code § 26639 (added). Consolidation of court-related services

SEC. ___. Section 26639 is added to the Government Code, to read:

26639. This article applies to the abolition of the marshal's office and the consolidation of court-related services within the sheriff's office in Los Angeles County.

Comment. Section 26639 reflects elimination of the marshal's office and consolidation of court-related services within the sheriff's office in Los Angeles County, effective January 1, 1994.

Gov't Code § 26639.1 (repealed). Board's determination

SEC. ___. Section 26639.1 of the Government Code is repealed.

~~26639.1. The consolidation shall occur pursuant to the board's determination, and shall be concluded no later than July 1, 1994.~~

Comment. Section 26639.1 is repealed to reflect elimination of the marshal's office and consolidation of court-related services within the sheriff's office in Los Angeles County, effective January 1, 1994.

Gov't Code § 26639.2 (amended). Bailiff courtroom assignment

SEC. ___. Section 26639.2 of the Government Code is amended to read:

26639.2. The courtroom assignment of bailiffs <u>in the Los Angeles County Superior Court</u> after consolidation pursuant to this article shall be determined by ~~a three-member committee comprised of~~ the presiding judge ~~of the superior court; the Chairperson of the Municipal Court Judges' Association~~ and the bailiff's management representative; or their designees. Any new bailiff assignments shall be made only after consultation with the affected judge or commissioner in whose courtroom a new assignment is planned, the bailiff's management representative, and with the bargaining unit of the bailiff employee, if the employee is represented.

It is the intent of the Legislature, in enacting this section, to ensure that courtroom assignments are made in a manner which best assures that the interests of the affected judge or commissioner and bailiff are protected.

Comment. Section 26639.2 is amended to reflect unification of the municipal and superior courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution, effective January 22, 2000.

Gov't Code § 26639.3 (amended). Personnel of consolidated office

SEC. ___. Section 26639.3 of the Government Code is amended to read:

26639.3. (a) ~~Notwithstanding any other provision of law, the marshal, sheriff, and all personnel of the marshal's office or personnel of the sheriff's office affected by a~~

~~consolidation of court-related services and the service of civil and criminal process under this article shall become employees of that consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services and the service of civil and criminal process are consolidated, shall not be involuntarily transferred out of the consolidated office for a period of five years following the consolidation.~~

~~(b) Permanent employees of the marshal's office or sheriff's office on the effective date of consolidation under this article shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this article shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.~~

~~(c)~~ All county service or service by employees of the marshal's office ~~or the sheriff's office~~ on the effective date of ~~a~~ the consolidation under this article shall be counted toward seniority in the ~~consolidated~~ sheriff's office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

~~(d)~~ (b) No employee of the marshal's office or the sheriff's office on the effective date of a the consolidation under this article shall lose peace officer status, be demoted, or otherwise adversely affected as a result of the consolidation.

Comment. Section 26639.3 is amended to reflect elimination of the marshal's office and consolidation of court-related services within the sheriff's office in Los Angeles County, effective January 1, 1994.

Gov't Code § 26639.7 (added). Repeal of article

SEC. ___. Section 26639.7 is added to the Government Code, to read:

26639.7. (a) This article shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Section 26639.7 is added to provide for the automatic repeal of Article 1.9 (commencing with Section 26639.5) in fifteen years.

Gov't Code § 26665 (amended). Service of writs or other process

SEC. ___. Section 26665 of the Government Code is amended to read:

26665. All writs, notices, or other process issued by superior ~~or municipal~~ courts in civil actions or proceedings may be served by any duly qualified and acting marshal or sheriff of any county in the state, subject to the Code of Civil Procedure.

Comment. Section 26665 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 26667 (repealed). Consolidation of duplicate services

SEC. ___. Section 26667 of the Government Code is repealed.

~~26667. Notwithstanding any other provision of law, the Board of Supervisors of Orange County shall have the authority to consolidate duplicate services provided by the sheriff's department and the marshal's office within that county in the manner set forth in this section.~~

~~(a) In the event the board of supervisors desire to effect such a consolidation it shall create a sheriff/marshal consolidation advisory committee composed of two members of~~

~~the board of supervisors, appointed by that board; the presiding judge of the Orange County Superior Court or his or her designee, who shall be a judge of the superior court; a person selected by a majority of the judges of the municipal courts in that county, who shall be a municipal court judge; and a fifth person whose selection shall be concurred in by unanimous vote of the other members.~~

~~(b) The advisory committee shall prepare a plan for the consolidation of the above services. The plan shall be approved by affirmative vote of at least three of the members of the committee.~~

~~(c) If so approved, the plan shall be forwarded to the judges of the superior and municipal courts for ratification. The plan may not be implemented unless ratified by a majority of the trial court judges of the county and by the Legislature. The plan shall be deemed ratified by the Legislature if this section is not repealed by legislation taking effect within 90 legislative days following ratification by the trial court judges of the county.~~

Comment. Section 26667 is repealed to reflect consolidation of court-related services in Orange County within the sheriff's office pursuant to former Section 69915, effective July 1, 2000.

Gov't Code § 26668 (repealed). Consolidation of court-related services

SEC. ___. Section 26668 of the Government Code is repealed.

~~26668. Notwithstanding any other provision of law, the Board of Supervisors of Riverside County may find, after holding a public hearing on the issue, that cost savings can be realized by consolidation of court-related services provided by the sheriff and both offices of the marshal within that county. If that finding is made, there shall be conducted among all of the judges of the superior and municipal courts of that county an election to determine the agency, either the sheriff or both offices of the marshal, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast. The registrar of voters shall administer that election and tabulate the results thereof. The results of that election shall be reported within 15 days following the election period, by the registrar of voters to the board of supervisors and to the judges of the superior and municipal courts of that county. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by a majority of the votes cast in that election. If an election is not conducted within 90 days of notification of the board of supervisors' finding, or if the results of the election are evenly divided, the board of supervisors of that county shall determine under which agency, either the sheriff or both offices of the marshal, court-related services shall be consolidated; and shall proceed to implement the consolidation as if on the basis of a majority of the votes cast by the judges of the superior and municipal courts of that county.~~

Comment. Section 26668 is repealed to reflect consolidation of court-related services in Riverside County within the sheriff's office pursuant to Section 72110, effective April 19, 1990.

Gov't Code § 26671.1 (amended). Consolidation of sheriff and marshal offices

SEC. ___. Section 26671.1 of the Government Code is amended to read:

26671.1. Notwithstanding any other provision of law, the Board of Supervisors of Santa Barbara County may, by ordinance, abolish the office of Marshal of Santa Barbara County and the Santa Barbara County Marshal's Office and consolidate the services and personnel of the Santa Barbara County Marshal into the Santa Barbara County Sheriff's Department.

~~Upon the effective date of that consolidation ordinance, Sections 74644.1, 74644.2, and 74644.5 shall cease to be operative and this article shall become operative and shall continue in full force and effect during the period of consolidation.~~

Upon the effective date of that consolidation ordinance, there shall be established within the Santa Barbara County Sheriff's Department a unit designated as the court services division. The Sheriff of Santa Barbara County shall be responsible for the management and operation of that unit, in accordance with this article. ~~Personnel assigned to the court services division shall have all powers and shall perform all duties relating to marshals and constables as set forth in Sections 71264 to 71269, inclusive~~.

Comment. Section 26671.1 is amended to delete references to former Sections 74644.1, 74644.2, and 74644.5.

The section is also amended to delete unnecessary references to Sections 71264-71269. For provisions relating to the sheriff, see Sections 26603 (superior court attendance), 26608, 26609, 26660-26665 (process and notices), 26611 (court crier), 26720-26751 (fees). See also Code Civ. Proc. § 262.4 (conveyances on sale of real estate).

Gov't Code § 26671.4 (amended). Court-related services

SEC. ___. Section 26671.4 of the Government Code is amended to read:

26671.4. Notwithstanding any other provision of law, upon consolidation the sheriff shall provide to the superior ~~and municipal courts~~ court within Santa Barbara County the following services:

(a) Court security services, including prisoner transportation services, prisoner escort services, bailiff services, courthouse and other security services, and the execution of court orders and bench warrants requiring the immediate presence in court of a defendant or witness.

(b) Notice and process services, including service of summons, subpoenas, warrants, and other civil and criminal process.

Comment. Section 26671.4 is amended to reflect unification of the municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

Gov't Code § 26671.5 (amended). Quality of service and bailiff assignments

SEC. ___. Section 26671.5 of the Government Code is amended to read:

26671.5. (a) The sheriff shall provide, within the limits of the resources at his or her disposal, those services enumerated in Section 26671.4, to the superior ~~and municipal courts~~ court of at least as high a quality as were provided preceding the abolition and consolidation. In no event shall the resources committed to those services be less than necessary for the proper functioning of the Santa Barbara County ~~Municipal and~~ Superior ~~Courts~~ Court.

(b) Upon the effective date of consolidation, the regular assignment of bailiffs to individual courtrooms shall be made by the commander of the court services division with the concurrence of the individual judicial officer in whose courtroom the assignment is to be made.

Comment. Subdivision (a) of Section 26671.5 is amended to reflect unification of the municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

Gov't Code § 26671.6 (amended). Court services oversight committee

SEC. ___. Section 26671.6 of the Government Code is amended to read:

26671.6. (a) Effective upon consolidation, there shall be created a Court Services Oversight Committee consisting of ~~one judge from the North County to be selected by the North Santa Barbara County Municipal Court judges, one judge from the South County to be selected by Santa Barbara Municipal Court judges,~~ the presiding judge of the superior court~~,~~ and one judge to be selected by the sheriff.

(b) Members of the Court Services Oversight Committee shall serve for a term of two years, or as otherwise designated by the appointing authorities.

(c) The duties of the Court Services Oversight Committee shall be those prescribed by this article.

Comment. Subdivision (a) of Section 26671.6 is amended to reflect unification of the municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

Gov't Code § 26671.8 (amended). No limitation or impairment of power to secure court-related services

SEC. ___. Section 26671.8 of the Government Code is amended to read:

26671.8. Nothing in this article shall be deemed in any manner to limit or otherwise impair the legal power vested by other laws~~, including Section 68073,~~ in the superior ~~and municipal courts~~ court within Santa Barbara County to secure proper provision of court-related services.

Comment. Section 26671.8 is amended to reflect unification of the municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

The section is also amended to delete an obsolete reference to Section 68073, which no longer deals with power of the courts to secure the proper provision of court-related services. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Gov't Code § 26672 (added). Repeal of article

SEC. ___. Section 26672 is added to the Government Code, to read:

26672. (a) This article shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Section 26672 is added to provide for the automatic repeal of Article 3.5 (commencing with Section 26671) in fifteen years.

Gov't Code § 26800 (repealed). County clerk acting as clerk of superior court

SEC. ___. Section 26800 of the Government Code is repealed.

~~26800. The county clerk shall act as clerk of the superior court in and for his or her county. However, in any county in which a superior court executive officer has been appointed pursuant to Section 69898, the term "county clerk" shall mean the superior court executive officer to the extent that the superior court, by local rule, has delegated any duties of the county clerk to the superior court executive officer.~~

Comment. Section 26800 is repealed to reflect elimination of the county clerk's role as ex officio clerk of the superior court. The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities.

See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 26827.1 (amended). Fee for clerk's preparation of order or decree in probate proceeding in Los Angeles County

SEC. ___. Section 26827.1 of the Government Code is amended to read:

26827.1. In ~~any county in which the population is 4,000,000 or more, as determined by the 1970 Federal Decennial Census~~ Los Angeles County, whenever the court directs that an order or decree in a probate proceeding be prepared by the clerk, the fee for preparing such order or decree shall be the amount necessary to defray the costs of preparation, as determined by the ~~county~~ clerk of the court on an annual basis, but shall not exceed fifty dollars ($50). The fee so paid shall be an expense of administration.

Comment. Section 26827.1 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

The reference to a county in which the population is 4,000,000 or more is revised to refer to Los Angeles County by name.

Gov't Code § 26835.1 (amended). Authentication of documents

SEC. ___. Section 26835.1 of the Government Code is amended to read:

26835.1. (a) The clerk of the court shall collect a fee of six dollars ($6) per signature for any document that is required to be authenticated pursuant to court order.

(b) Each document authenticated by the ~~county~~ clerk of the court shall contain the following statement:

"____, ~~County Clerk and ex officio~~ Clerk of the Superior Court, in and for the County of ____, State of California. Signed pursuant to court order dated ____ in the matter of ____ petitioner v. ____, respondent, Case No. ___."

(c) Notwithstanding Section 68085, two dollars ($2) of the fee authorized by subdivision (a) shall be deposited in the county general fund for use as county general fund revenue.

Comment. Subdivision (b) of Section 26835.1 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 26856 (amended). Fees for services of court clerk

SEC. ___. Section 26856 of the Government Code is amended to read:

26856. The fees fixed by this article are in full for all services rendered by the ~~county~~ clerk of the court in any civil action or special proceeding.

Comment. Section 26856 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the

county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 27081 (amended). Deposit of jury fees and naturalization fees

SEC. ___. Section 27081 of the Government Code is amended to read:

27081. The ~~county~~ clerk of the court may deposit in the county treasury any money deposited ~~with him~~ as jury fees or as a portion of the naturalization fees required by law to be paid ~~by him~~ to the United States. The treasurer shall accept and keep separate accounts of such deposits. The money may be withdrawn at any time by the ~~county~~ clerk of the court ~~upon his~~ on the clerk's written order. For the safekeeping of the money the treasurer is liable on ~~his~~ the treasurer's official bond.

Comment. Section 27081 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 27464 (amended). Suicide note

SEC. ___. Section 27464 of the Government Code is amended to read:

27464. Whenever the death of any person shall have been referred to the coroner for investigation, there shall be delivered to the coroner any note, letter or other document apparently written by the deceased which may tend to indicate an intention by the writer to take ~~his~~ the writer's life, including directions for disposition of ~~his~~ property or disposal of ~~his~~ remains. A facsimile copy thereof shall be placed in the coroner's records, and, if an inquest be held, a true copy shall be read into the record and transcribed into the notes of the official stenographer. Upon completion of legal proceedings arising from such death, the original instrument shall be delivered by the coroner to the addressee or to the legal representative of the estate of the decedent; provided, however, that if the instrument purports to be testamentary in nature, it shall be filed with the ~~county~~ clerk of the court as provided by law.

Comment. Section 27464 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

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

SEC. ___. Section 27706 of the Government Code is amended to read:

27706. The public defender shall perform the following duties:

(a) Upon request of the defendant or upon order of the court, the public defender shall defend, without expense to the defendant, except as provided by Section 987.8 of the Penal Code, any person who is not financially able to employ counsel and who is charged with the commission of any contempt or offense triable in the superior ~~or municipal~~ courts at all stages of the proceedings, including the preliminary examination. The public defender shall, upon request, give counsel and advice to such person about any charge

against the person upon which the public defender is conducting the defense, and shall prosecute all appeals to a higher court or courts of any person who has been convicted, where, in the opinion of the public defender, the appeal will or might reasonably be expected to result in the reversal or modification of the judgment of conviction.

(b) Upon request, the public defender shall prosecute actions for the collection of wages and other demands of any person who is not financially able to employ counsel, where the sum involved does not exceed one hundred dollars ($100), and where, in the judgment of the public defender, the claim urged is valid and enforceable in the courts.

(c) Upon request, the public defender shall defend any person who is not financially able to employ counsel in any civil litigation in which, in the judgment of the public defender, the person is being persecuted or unjustly harassed.

(d) Upon request, or upon order of the court, the public defender shall represent any person who is not financially able to employ counsel in proceedings under Division 4 (commencing with Section 1400) of the Probate Code and Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(e) Upon order of the court, the public defender shall represent any person who is entitled to be represented by counsel but is not financially able to employ counsel in proceedings under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

(f) Upon order of the court the public defender shall represent any person who is required to have counsel pursuant to Section 686.1 of the Penal Code.

(g) Upon the order of the court or upon the request of the person involved, the public defender may represent any person who is not financially able to employ counsel in a proceeding of any nature relating to the nature or conditions of detention, of other restrictions prior to adjudication, of treatment, or of punishment resulting from criminal or juvenile proceedings.

Comment. Subdivision (a) of Section 27706 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 29610 (amended). Convention expenses

SEC. ___. Section 29610 of the Government Code is amended to read:

29610. The expenses of any elected county officer ~~and one marshal of a municipal court chosen by the marshals of the municipal courts~~ incurred while traveling to and from and while attending the annual convention of his or her respective association, are county charges which do not require prior approval of the board of supervisors. The board of supervisors may require prior approval by the board of supervisors for any other officer or employee to incur those expenses as county charges.

Comment. Section 29610 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The section is also amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71673 (authority of trial courts to establish terms and conditions of employment). For marshals who are county employees, this section is superseded by county ordinances or memoranda of understanding.

Gov't Code § 31520 (amended). Board of retirement

SEC. ___. Section 31520 of the Government Code is amended to read:

31520. Except as otherwise delegated to the board of investment and except for the statutory duties of the county treasurer, the management of the retirement system is

vested in the board of retirement, consisting of five members, one of whom shall be the county treasurer. The second and third members of the board shall be active members of the association elected by it within 30 days after the retirement system becomes operative in a manner determined by the board of supervisors. The fourth and fifth members shall be qualified electors of the county who are not connected with county government in any capacity, except one may be a supervisor and one may be a retired member, and shall be chosen by the board of supervisors. The first persons chosen as the second and fourth members shall ~~service~~ serve for two years from the date the system becomes operative and the third and fifth members shall serve for a term of three years from that date. Thereafter the terms of office of the four elected members are three years.

As used in this section "active member" means a member in the active service of a county, district, ~~municipal court~~ or superior court and a "retired member" means a member, including a member under former Section 31555, retired for service or disability.

Comment. Section 31520 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 31555 (repealed). Participation in county retirement plan by municipal court employees

SEC. ___. Section 31555 of the Government Code is repealed.

~~31555. All officers and attaches of any municipal court established within the county under the Municipal Court Act of 1925 or Municipal and Justice Court Act of 1949, except judges, become members of the association on the first day of the calendar month after the board of supervisors adopts by four-fifths vote a resolution providing for their inclusion. Thereafter each person entering such employ becomes a member on the first day of the calendar month following his entrance into the service of the court.~~

Comment. Section 31555 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See also Section 71624 (retirement plans).

Gov't Code § 31662.6 (amended). Retirement age of safety members

SEC. ___. Section 31662.6 of the Government Code is amended to read:

31662.6. Two years after a retirement system established by this chapter becomes operative, a safety member except an elective officer, the sheriff and undersheriff, and the marshal ~~of all of the municipal court~~s appointed to serve the superior court within the county, shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 60.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

Comment. Section 31662.6 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 31663 (amended). Retirement age of sheriff, undersheriff, marshal and other officers

SEC. ___. Section 31663 of the Government Code is amended to read:

31663. After January 1, 1954, or two years after a retirement system established by this chapter becomes operative, whichever is later, a sheriff who is a safety member and not

elective, and an undersheriff, who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 70.

The marshal ~~of all the municipal courts~~ appointed to serve the superior court within the county who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he or she attains age 65.

In ~~any county having a population in excess of 503,000 but less than 600,000 as determined by Section 28020 as amended in 1961~~ San Bernardino County, a sheriff's inspector, a chief inspector in a sheriff's office, or a chief deputy in a sheriff's office, who is a safety member and whose primary duties are administrative, shall be retired as of the first day of the calendar month next succeeding that in which ~~he~~ the person attains age 70.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

Comment. Section 31663 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The reference to a county having a population over 503,000 but less than 600,000 as determined by Section 28020 as amended in 1961 is also revised to refer to San Bernardino County by name.

Gov't Code § 41803.5 (amended). Prosecution of misdemeanor by city attorney

SEC. ___. Section 41803.5 of the Government Code is amended to read:

41803.5. (a) With the consent of the district attorney of the county, the city attorney of any general law city or chartered city within the county may prosecute any misdemeanor committed within the city arising out of violation of state law. This section shall not be deemed to affect any of the provisions of ~~Sections 71099 or~~ Section 72193.

(b) In any case in which the district attorney is granted any powers or access to information with regard to the prosecution of misdemeanors, this grant of powers or access to information shall be deemed to apply to any other officer charged with the duty of prosecuting misdemeanor charges in the state, as authorized by law.

Comment. Subdivision (a) of Section 41803.5 is amended to reflect the repeal of Section 71099, concerning prosecution of misdemeanor cases where a court is superseded by a municipal court.

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

SEC. ___. Section 50920 of the Government Code is amended to read:

50920. As used in this article, the term "peace officer" means a sheriff, undersheriff, deputy sheriff, marshal, or deputy marshal of a county~~,~~ or city and county, ~~or judicial district,~~ or a marshal or police officer of a city or town, employed and compensated as such, whether the members are volunteer, partly paid, or fully paid, except those whose principal duties are clerical, such as stenographers, telephone operators, and other workers not engaged in law enforcement operations, or the protection or preservation of life or property, and not under suspension or otherwise lacking in good standing.

Comment. Section 50920 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Code Civ. Proc. § 38 (judicial district).

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

SEC. ___. Section 53069.4 of the Government Code is amended to read:

53069.4. (a)(1) The legislative body of a local agency, as the term "local agency" is defined in Section 54951, may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties. Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Section 25132 and subdivision (b) of Section 36900.

(2) The administrative procedures set forth by ordinance adopted by the local agency pursuant to paragraph (1) shall provide for a reasonable period of time, as specified in the ordinance, for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety.

(b)(1) Notwithstanding the provisions of Section 1094.5 or 1094.6 of the Code of Civil Procedure, within 20 days after service of the final administrative order or decision of the local agency is made pursuant to an ordinance enacted in accordance with this section regarding the imposition, enforcement or collection of the administrative fines or penalties, a person contesting that final administrative order or decision may seek review by filing an appeal to be heard ~~by the municipal court or~~ by the superior court ~~in a county in which there is no municipal court~~, where the same shall be heard de novo, except that the contents of the local agency's file in the case shall be received in evidence. A proceeding under this subdivision is a limited civil case. A copy of the document or instrument of the local agency providing notice of the violation and imposition of the administrative fine or penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first- class mail upon the local agency by the contestant.

(2) The fee for filing the notice of appeal shall be twenty-five dollars ($25). The court shall request that the local agency's file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the twenty-five dollar ($25) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the local agency in accordance with the judgment of the court.

(3) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(c) If no notice of appeal of the local agency's final administrative order or decision is filed within the period set forth in this section, the order or decision shall be deemed confirmed.

(d) If the fine or penalty has not been deposited and the decision of the court is against the contestant, the local agency may proceed to collect the penalty pursuant to the procedures set forth in its ordinance.

Comment. Subdivision (b) of Section 53069.4 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 53075.6 (amended). Impoundment for operating as taxicab near airport or international border without taxicab certificate, license, or permit

SEC. ___. Section 53075.6 of the Government Code is amended to read:

53075.6. Whenever a peace officer or public officer or employee, when authorized by ordinance and as defined in Section 836.5 of the Penal Code, arrests any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, and the offense occurred at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the officer or employee may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in ~~municipal court or~~ superior court ~~in a county in which there is no municipal court~~ for the immediate return of a vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this paragraph is a limited civil case.

No officer or employee, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

Comment. Section 53075.6 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 53075.61 (amended). Impoundment by transportation inspector for operating as taxicab without taxicab certificate, license, or permit

SEC. ___. Section 53075.61 of the Government Code is amended to read:

53075.61. A transportation inspector, authorized by a local government to cite any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in ~~municipal court or~~ superior court ~~in a county in which there is no municipal court~~ for the immediate return of a vehicle on the

ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this paragraph is a limited civil case.

No officer or employee, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

Comment. Section 53075.61 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 61601.1 (amended). Abatement of graffiti

SEC. ___. Section 61601.1 of the Government Code is amended to read:

61601.1. (a) "Abatement," for the purposes of this section, includes the removal and prevention of graffiti, antigraffiti education, and restitution to any property owner for any injury or damage caused by the removal of graffiti from the property.

(b) A district that is authorized to abate graffiti may:

(1) Remove or contract for the removal of graffiti from any public or private property within its boundaries.

(2) Indemnify or compensate any property owner for any injury or damage caused by the removal of graffiti from property.

(3) Undertake a civil action to abate graffiti as a nuisance pursuant to Section 731 of the Code of Civil Procedure.

(4) Use the services of persons ordered to perform those services by a ~~municipal~~, ~~superior,~~ <u>superior</u> or juvenile court.

(5) Use the phrase "Graffiti Abatement District" in the name of the district.

(6) Operate specifically designated telephone "hot lines" for the purpose of receiving reports of unlawful application of graffiti on public or private property.

(7) Operate a program of financial reward, not to exceed one thousand dollars ($1,000), for information leading to the arrest and conviction of any person who unlawfully applies graffiti to any public or private property.

Comment. Subdivision (b)(4) of Section 61601.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68071 (amended). Effective date of trial court rules

SEC. ___. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior ~~or municipal~~ court shall take effect until the January 1 or July 1, whichever comes first, following the 30th day after it has been filed with the Judicial Council and the clerk of the court, and made immediately available for public examination. The Judicial Council may establish, by rule, a procedure for exceptions to these effective dates.

Comment. Section 68071 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68072 (amended). Effective date of rules of Judicial Council, Supreme Court, or court of appeal

SEC. ___. Section 68072 of the Government Code is amended to read:

68072. Rules adopted by the Judicial Council, the Supreme Court, or a court of appeal shall take effect on a date to be fixed in the order of adoption. If no effective date is fixed,

those rules shall take effect 60 days after their adoption. Rules adopted by a superior ~~or municipal~~ court shall take effect as provided in Section 68071.

Comment. Section 68072 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68073 (amended). Responsibility for court operations and facilities

SEC. ___. Section 68073 of the Government Code is amended to read:

68073. (a) Commencing July 1, 1997, and each year thereafter, no county or city and county shall be responsible to provide funding for "court operations" as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing as of July 1, 1996, and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. In determining whether facilities are necessary and suitable, the reasonable needs of the court and the fiscal condition of the county or city and county shall be taken into consideration.

(c) If a county or city and county fails to provide necessary and suitable facilities as described in subdivision (b), the court shall give notice of a specific deficiency. If the county or city and county then fails to provide necessary and suitable facilities pursuant to this section, the court may direct the appropriate officers of the county or city and county to provide the necessary and suitable facilities. The expenses incurred, certified by the ~~judge or~~ judges to be correct, are a charge against the county or city and county treasury and shall be paid out of the general fund.

(d) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, a county or city and county shall solicit the review and comment of the ~~judge or~~ judges of the court affected regarding the adequacy and standard of design, and that review and comment shall not be disregarded without reasonable grounds.

(e) For purposes of this section, "facilities" means: (1) rooms for holding superior ~~and municipal~~ court, (2) the chambers of the judges of the court, (3) rooms for the attendants of the court, and (4) sufficient heat, ventilation, air-conditioning, light, and fixtures for those rooms and chambers.

(f) This section shall not be construed as authorizing a county, a city and county, a court, or the state to supply to the official reporters of the courts stenography, stenotype, or other shorthand machines; nor as authorizing the supply to the official reporters of the courts, for use in the preparation of transcripts, of typewriters, transcribing equipment, supplies, or other personal property.

Comment. Subdivisions (c) and (d) of Section 68073 are amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13 (plural includes singular).

Subdivision (e) is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68074.1 (amended). Manner of affixing seal

SEC. ___. Section 68074.1 of the Government Code is amended to read:

68074.1. The seal of any superior ~~or municipal~~ court may be affixed by a seal press or stamp which will print or emboss a seal which will reproduce legibly under photographic methods.

Comment. Section 68074.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68077 (repealed). Seal of municipal court

SEC. ___. Section 68077 of the Government Code is repealed.

~~68077. The municipal court of every judicial district or consolidated city and county may use any seal having upon it "Municipal Court ____," with the name of the judicial district or consolidated city and county inserted.~~

Comment. Section 68077 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68082 (amended). Practice of law by court officers

SEC. ___. Section 68082 of the Government Code is amended to read:

68082. ~~During his~~ Except as otherwise provided by law, during the officer's continuance in office, a court commissioner, judge ~~of a court of record~~, or ~~county clerk~~ court executive or administrative officer shall not practice law in any court of this state or act as attorney, agent, or solicitor in the prosecution of any claim or application for lands, pensions, patent rights, or other proceedings before any department of the state or general government or courts of the United States. As used in this section, the practice of law includes being in partnership or sharing fees, commissions, or expenses in the practice of law with any person acting as an attorney in this state.

Comment. Section 68082 is amended to reflect the Judicial Council's authority to qualify the general statutory prohibition against the private practice of law by a subordinate judicial officer. See Section 69917 (practice of law by subordinate judicial officers).

The section is also amended to reflect the fact that all courts are "courts of record" pursuant to Article VI, Section 1, of the California Constitution.

The section is also amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 68083 (repealed). Conversion of municipal court judgeship

SEC. ___. Section 68083 of the Government Code is repealed.

~~68083. (a) Upon the occurrence of a vacancy in a municipal court judgeship, other than the sole remaining municipal court judgeship for the county, if the Governor finds there are sufficient funds for the conversion of a municipal court judgeship into a superior court judgeship and finds that the administration of justice would be advanced by such a conversion, the number of municipal court judges for the county shall then be reduced by one and the number of superior court judges for the county shall be increased by one. Prior to making a determination, the Governor shall consider the following factors:~~

~~(1) The geographic separation of the two courts.~~

~~(2) The fiscal impact of the conversion.~~

~~(3) The existence of a coordination plan approved pursuant to Section 68112 that permits blanket cross-assignment of superior court judges and municipal court judges to assist in the timely processing of cases before all of the courts in the county.~~

~~(b) For purposes of this section, a vacancy in a municipal court judgeship shall be deemed to occur only upon the appointment or election of a municipal court judge to another office, or to a court other than a superior court judgeship that was created within~~

~~three years pursuant to this section, upon the removal or death of the municipal court judge holding that judgeship, or upon the resignation or retirement of a municipal court judge who has reached the age of retirement.~~

~~(c) The Governor's finding shall become effective when signed by the Governor.~~

~~(d) When a finding by the Governor that a position should be reallocated takes effect, the Judicial Council shall reallocate to the superior court the funding in support of the municipal court salary and the chamber staff positions as well as any other required funding.~~

Comment. Section 68083 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68090.7 (amended). Fee for automating recordkeeping system and converting document system to micrographics

SEC. ___. Section 68090.7 of the Government Code is amended to read:

68090.7. In any county that has established a fee pursuant to Sections 26863 and 72054, the fee shall only apply to the following filings in each civil action or proceeding:

(a) The first paper and papers transmitted from another court, as specified in Sections 26820.4 and 72055.

(b) The first paper on behalf of an adverse party, as specified in Sections 26826 and 72056.

(c) A petition or other paper in a probate, guardianship, or conservatorship matter as specified by Section 26827.

The fee shall not apply to adoptions, appeals ~~from a municipal~~ <u>to the appellate division of the superior</u> court, or motions.

Except as otherwise specified by law, all fees collected under this section shall be deposited into the trial court operations fund of the county established pursuant to Section 77009, and an amount equal thereto shall be used exclusively to pay the costs of automating the court clerk and trial court recordkeeping system or converting the trial court document system to micrographics, or both.

Comment. Section 68090.7 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 68093 of the Government Code is amended to read:

68093. Except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend a civil action or proceeding in the superior ~~and municipal~~ courts, are thirty-five dollars ($35) a day and mileage actually traveled, both ways, twenty cents ($0.20) a mile.

Comment. Section 68093 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68096 (repealed). Witness fees and mileage in Tuolumne County

SEC. ___. Section 68096 of the Government Code is repealed.

~~68096. In Tuolumne County, witnesses when legally required to attend upon the superior court in criminal cases and upon the juvenile court in juvenile court matters, shall be paid six dollars ($6) a day for each day's actual attendance, and twelve cents ($0.12) for each mile actually traveled. The county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each witness. The~~

~~auditor shall draw his warrant for the fees and mileage due the witness, and the treasurer shall pay the warrant.~~

Comment. Section 68096 is repealed to reflect:

(1) Elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

(2) The fact that the witness fee provisions are obsolete. *Cf.* Sections 29603 (payments to jurors and witnesses), 68098 (witness fees in criminal cases); Penal Code § 1329 (witness fees and expenses in criminal cases); Welf. & Inst. Code § 664(b) (witness fees in juvenile court cases).

Gov't Code § 68105 (amended). Certified shorthand reporter who intends to become citizen

SEC. ___. Section 68105 of the Government Code is amended to read:

68105. Notwithstanding any other provision of law to the contrary, the Supreme Court, any court of appeal, or any superior ~~court, or any municipal~~ court may appoint as an official phonographic reporter or as an official phonographic reporter pro tempore a person who has declared ~~his~~ the intention to become a citizen and who is a certified shorthand reporter.

"A person who has declared ~~his~~ the intention to become a citizen," as used in this section, means a person who has either (1) filed the declaration of intention to become a citizen of the United States, or petition for naturalization, or comparable document prescribed by federal law or (2) filed an affidavit with the court, in the form prescribed by the court, that ~~he~~ the person will, at the first opportunity at which the applicable federal law permits, file such a declaration of intention to become a citizen of the United States, petition for naturalization, or comparable document. If the court determines that an individual who has filed under alternative (2) of the preceding sentence, has, without good cause, failed at the first opportunity provided under federal law to file one of the specified documents prescribed by federal law, it shall forthwith revoke the appointment.

Comment. Section 68105 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68108 (amended). Unpaid furlough days

SEC. ___. Section 68108 of the Government Code is amended to read:

68108. (a) ~~With respect to the superior and municipal courts, to the extent that the county's Consolidated~~ To the extent that a Memorandum of Understanding for ~~county~~ trial court employees designates certain days as unpaid furlough days for employees assigned to regular positions in the superior ~~and municipal courts, including all superior court, municipal court, and county employees assigned to the courts, the courts~~ court, the court shall not be in session on those days except as ordered by the presiding judge upon a finding by the presiding judge of a judicial emergency as defined in Chapter 1.1 (commencing with Section 68115). On these furlough days, although the clerk's office shall not be open to the public, each court shall permit documents to be filed at a drop box pursuant to subdivision (b), and an appropriate judicial officer shall be available to conduct arraignments and examinations as required pursuant to Section 825 of the Penal Code, and to sign any necessary documents on an emergency basis.

(b) A drop box shall provide for an automated, official time and date stamping mechanism or other means of determining the actual date on which a document was deposited in the drop box.

Comment. Subdivision (a) of Section 68108 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Subdivision (a) is also amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees).

Gov't Code § 68115 (amended). Emergency court operations

SEC. ___. Section 68115 of the Government Code is amended to read:

68115. When war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction of or danger to the building appointed for holding the court, renders it necessary, or when a large influx of criminal cases resulting from a large number of arrests within a short period of time threatens the orderly operation of a superior court ~~within a specified county or judicial district~~, the presiding ~~judge, or if there is none, the sole judge of the superior or municipal court~~, judge may request and the Chair of the Judicial Council may, notwithstanding any other provision of law, by order authorize the court to do one or more of the following:

(a) Hold sessions anywhere within the county.

(b) ~~Transfer civil cases pending in the court to another court in the county which has jurisdiction of the subject matter.~~

~~(c)~~ Transfer civil cases pending trial in the court to a superior court ~~having jurisdiction of the subject matter~~ in an adjacent county. No such transfer shall be made pursuant to this subdivision except with the consent of all parties to the case or upon a showing by a party that extreme or undue hardship would result unless the case is transferred for trial. Any civil case so transferred shall be integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council.

~~(d) Suspend subdivisions (d), (e), and (f) of Section 199 of the Code of Civil Procedure relating to competency to act as a juror when suspension is necessary to obtain a sufficient number of jurors.~~

~~(e) After exhausting its own jury panel, draw jurors who reside within the judicial district from the jury panel of the superior court in the county, and thereafter, after exhausting that source, draw jurors from the remainder of the jury panel of the superior court in the county or from jury panels of any other municipal court in the county.~~

~~(f)~~ (c) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from ~~two days~~ 48 hours to not more than seven days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order.

~~(g)~~ (d) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 court days to not more than 15 days.

~~(h)~~ (e) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

~~(i)~~ (f) Within the affected area of a county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Sections 632 and 637 of the Welfare and Institutions Code within which a minor shall be given a detention hearing, with the number of days to be designated by the

Chair of the Judicial Council. The extension of time shall be for the shortest period of time necessary under the circumstances of the emergency, but in no event shall the time period within which a detention hearing must be given be extended to more than seven days. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

~~(j)~~ (g) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 657 of the Welfare and Institutions Code within which an adjudication on a juvenile court petition shall be held by not more then 15 days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

Comment. Section 68115 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The introductory paragraph is also amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Section 69508.5 (presiding judge).

Former subdivision (d) is deleted to reflect repeal of former Code of Civil Procedure Section 199. See 1975 Cal. Stat. ch. 593, § 1 and 1988 Cal. Stat. ch. 1245, § 1.

Subdivision (c) (former subdivision (f)) is amended to replace the reference to "two days" with "48 hours" for consistency with Penal Code Section 825.

Subdivision (d) (former subdivision (g)) is amended to add the word "court" for consistency with Penal Code Section 859b.

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

SEC. ___. Section 68152 of the Government Code is amended to read:

68152. The trial court clerk may destroy court records under Section 68153 after notice of destruction and if there is no request and order for transfer of the records, except the comprehensive historical and sample superior court records preserved for research under the California Rules of Court, when the following times have expired after final disposition of the case in the categories listed:

(a) Adoption: retain permanently.

(b) Change of name: retain permanently.

(c) Other civil actions and proceedings, as follows:

(1) Except as otherwise specified: 10 years.

(2) Where a party appears by a guardian ad litem: 10 years after termination of the court's jurisdiction.

(3) Domestic violence: same period as duration of the restraining or other orders and any renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.

(4) Eminent domain: retain permanently.

(5) Family law, except as otherwise specified: 30 years.

(6) Harassment: same period as duration of the injunction and any renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.

(7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.

(8) Paternity: retain permanently.

(9) Petition, except as otherwise specified: 10 years.

(10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.

(11) Small claims: 10 years.

(12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.

(d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:

(1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.

(2) Voluntarily dismissed by a party without entry of judgment: one year.

Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.

(e) Criminal.

(1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.

(2) Felony, except as otherwise specified: 75 years.

(3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.

(4) Misdemeanor, except as otherwise specified: five years.

(5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.

(6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: seven years.

(7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.

(8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.

(9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural Code or violation of any other local ordinance: three years.

(10) Infraction, except as otherwise specified: three years.

(11) Parking infractions, including alleged violations under the stopping, standing, and parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code: two years.

(f) Habeas corpus: same period as period for retention of the records in the underlying case category.

(g) Juvenile.

(1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age 28 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the

records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.

(2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age 38 under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order when the subject of the record reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. May be microfilmed or photocopied.

(5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be destroyed.

(h) Probate.

(1) Conservatorship: 10 years after decree of termination.

(2) Guardianship: 10 years after the age of 18.

(3) Probate, including probated wills, except as otherwise specified: retain permanently.

(i) Court records of the appellate division of the superior court: five years.

(j) Other records.

(1) Applications in forma pauperis: any time after the disposition of the underlying case.

(2) Arrest warrant: same period as period for retention of the records in the underlying case category.

(3) Bench warrant: same period as period for retention of the records in the underlying case category.

(4) Bond: three years after exoneration and release.

(5) Coroner's inquest report: same period as period for retention of the records in the underlying case category; if no case, then permanent.

(6) Court orders not associated with an underlying case, such as orders for destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.

(7) Court reporter notes: 10 years after the notes have been taken in criminal and juvenile proceedings and five years after the notes have been taken in all other proceedings, except notes reporting proceedings in capital felony cases (murder with special circumstances where the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, which shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction.

(8) Electronic recordings made as the official record of the oral proceedings under the California Rules of Court: any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and five years in all other proceedings.

(9) Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court: any time either before or after final disposition of the case.

(10) Index, except as otherwise specified: retain permanently.

(11) Index for cases alleging traffic violations: same period as period for retention of the records in the underlying case category.

(12) Judgments within the jurisdiction of the superior court other than in a limited civil case, misdemeanor case, or infraction case: retain permanently.

(13) Judgments ~~within the jurisdiction of the municipal court or of the superior court in a limited civil case~~ in misdemeanor cases, infraction cases, and limited civil cases: same period as period for retention of the records in the underlying case category.

(14) Minutes: same period as period for retention of the records in the underlying case category.

(15) Naturalization index: retain permanently.

(16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for retention of the records in the underlying case category, or period for completion or termination of probation, whichever is longer.

(17) Register of actions or docket: same period as period for retention of the records in the underlying case category, but in no event less than 10 years for civil and small claims cases.

(18) Search warrant: 10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.

(k) Retention of any of the court records under this section shall be extended as follows:

(1) By order of the court on its own motion, or on application of a party or any interested member of the public for good cause shown and on such terms as are just. No fee shall be charged for making the application.

(2) Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

Comment. Subdivision (j) of Section 68152 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68202 (amended). Annual salary of judges

SEC. ___. Section 68202 of the Government Code is amended to read:

68202. Effective January 1, 1985, the annual salary of each of the following judges is the amount indicated opposite the name of the office:

~~(a)~~ Judge of the superior court, seventy-two thousand seven hundred sixty-three dollars ($72,763).

~~(b) Judge of a municipal court, sixty-six thousand four hundred forty-nine dollars ($66,449).~~

Comment. Section 68202 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68206.2 (amended). Reimbursement for salary and per diem of substitute judge

SEC. ___. Section 68206.2 of the Government Code is amended to read:

68206.2. (a) On and after January 1, 1990, the state shall reimburse each small county which is not an option county under the Brown-Presley Trial Court Funding Act (Chapter 12 (commencing with Section 77000) of this title), for the cost of salary and per diem for any substitute judge assigned to replace a judge disqualified from acting as a judge while

there is pending a recommendation to the Supreme Court by the Commission on Judicial Performance for removal or retirement of the judge pursuant to subdivision (a) of Section 18 of Article VI of the California Constitution, beginning with the salary and per diem for the seventh month following the disqualification.

(b) For purposes of this section, a "small county" is one which has a total of nine or fewer superior ~~and municipal~~ court judges.

Comment. Subdivision (b) of Section 68206.2 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68520 (repealed). Reporting requirements

SEC. ___. Section 68520 of the Government Code is repealed.

~~68520. (a) On or before January 31, 1992, each superior, municipal, and justice court shall provide the Judicial Council with complete information regarding the number, classification, salary, and benefits of every officer and employee of the court who is involved in performing court operations, as defined in Section 77003.~~

~~(b) On or before July 1, 1992, the Judicial Council shall report to the Legislature its findings and recommendations on the disposition of trial court employees, including the possibility of continuing them as county employees for purposes of compensation and benefits, under the eventual state assumption of trial court funding. The Judicial Council shall also recommend methods of limiting increases in court employee compensation beyond that of comparable state employees. The goals of the recommendations shall be (1) uniformity, (2) equity, and (3) cost control. The study shall include the participation of three representatives selected by labor organizations representing court employees.~~

~~(c) It is the intent of the Legislature that existing provisions pertaining to court employees, including, but not limited to, collective bargaining, merit systems, pensions, and other benefits shall remain in effect until July 1, 1993.~~

Comment. Section 68520 is repealed as obsolete, because the reports required by this section were due in 1992.

Gov't Code § 68540 (repealed). Additional compensation for municipal court judge assigned to superior court

SEC. ___. Section 68540 of the Government Code is repealed.

~~68540. The state shall pay the additional compensation of a judge of a municipal court assigned to a superior court.~~

Comment. Section 68540 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68542 (repealed). Expenses for travel to another county

SEC. ___. Section 68542 of the Government Code is repealed.

~~68542. The expenses for travel, board, and lodging of each judge assigned to a superior or municipal court in a county other than that in which he or she regularly sits shall be paid by the state under the rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.~~

Comment. Section 68542 is repealed to reflect enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

Gov't Code § 68542.5 (repealed). Expenses for travel within county

SEC. ___. Section 68542.5 of the Government Code is repealed.

~~68542.5. Any judge of a superior or municipal court sitting in another court in the same county under assignment by the Chair of the Judicial Council shall receive from such county the amount of actual and necessary traveling expenses incurred while traveling between home and the courtroom unless the courtrooms are within five miles of each other.~~

Comment. Section 68542.5 is repealed to reflect enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

Gov't Code § 68546 (repealed). Assignment of municipal court attachés to superior court

SEC. ___. Section 68546 of the Government Code is repealed.

~~68546. If the Chair of the Judicial Council assigns a judge of a municipal court in a county to sit on the superior court of the same county, the presiding judge of the municipal court may, with the consent of the presiding judge of the superior court, also assign the court reporter, deputy clerk and deputy marshal, or any of them, of the municipal court from which that judge is assigned to act as court reporter, deputy clerk and deputy sheriff, respectively, for the superior court during the period for which the judge is assigned. During the period for which the court reporter, deputy clerk, or deputy marshal is assigned, they shall receive the same salary as a court reporter, deputy clerk, or deputy sheriff, respectively, for the superior court. If there be no presiding judge, the senior or sole judge may make or consent to the assignment of the attaches. This section shall not apply to the assignment of the deputy clerk or deputy marshal in any county until the board of supervisors by ordinance has adopted its provisions. An ordinance is not required where the deputy clerk and deputy marshal consent to serve as part of their regular duties without additional compensation.~~

Comment. Section 68546 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* former Section 71264 (municipal court served by marshal).

Gov't Code § 68562 (amended). Certification of court interpreters

SEC. ___. Section 68562 of the Government Code is amended to read:

68562. (a) The Judicial Council shall designate the languages for which certification programs shall be established under subdivision (b). The language designations shall be based on (1) the courts' needs as determined by the language and interpreter use and need studies under Section 68563, (2) the language needs of non-English-speaking persons in the courts, and (3) other information the Judicial Council deems relevant.

(b) By July 1, 1996, the Judicial Council shall approve one or more entities to certify Spanish language interpreters and interpreters for as many other languages designated under subdivision (a) as practicable by that date. The Judicial Council may give provisional approval to an entity to examine interpreters and establish a list of recommended court interpreters pending final approval of one or more certification entities. Certification entities may include educational institutions, testing organizations, joint powers agencies, or public agencies.

The Judicial Council shall adopt and publish guidelines, standards, and procedures to determine which certification entities will be approved to test and certify interpreters.

(c) The Judicial Council shall develop and implement procedures to administer the list of recommended court interpreters previously established by the State Personnel Board and the list established by an entity provisionally approved under subdivision (b).

The Judicial Council shall develop procedures and standards for certifying without reexamination interpreters on the list of recommended court interpreters (1) previously

established by the State Personnel Board, or (2) established by an entity provisionally approved under subdivision (b). Certification of these interpreters shall be based on criteria determined by the Judicial Council, such as recent interpreting experience, performance in court or at administrative hearings, training, and continuing education.

(d) The Judicial Council shall adopt standards and requirements for interpreter proficiency, continuing education, certification renewal, and discipline. The Judicial Council shall adopt standards of professional conduct for court interpreters.

(e) The Judicial Council shall adopt programs for interpreter recruiting, training, and continuing education and evaluation to ensure that an adequate number of interpreters is available and that they interpret competently.

(f) The Judicial Council shall establish guidelines for fees or shall set and charge fees for applications to take the court interpreter examinations, for renewal of certifications, for certification of interpreters on the list of recommended court interpreters, for maintaining interpreters on the recommended list until January 1, 1996, and for other functions and services provided under this article. All fees and other revenues received by the Judicial Council under this article shall be transferred promptly to the Controller, and shall be placed in the Court Interpreters' Fund, which is hereby created, the moneys in which shall be available to carry out the purposes of this article upon appropriation by the Legislature.

(g) Each superior ~~and municipal~~ court may adopt local rules to impose additional requirements, standards, examinations, and programs as necessary for equity or to recognize local conditions.

Comment. Subdivision (g) of Section 68562 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 68611 (repealed). Report on exemplary delay reduction program

SEC. ___. Section 68611 of the Government Code is repealed.

~~68611. The Judicial Council shall collect and maintain statistics, and shall publish them at least on an annual basis, regarding the compliance of each court in the exemplary delay reduction program with the standards for timely disposition adopted pursuant to Section 68603, with the policies and requirements of this article, and regarding the cases assigned to the judges of each program. On or before July 1, 1991, the Judicial Council shall report to the Legislature on the results of the exemplary delay reduction program and recommend whether the requirements of Section 68607 should be applied to the superior or municipal courts of the state.~~

~~This section shall cease to be operative on July 1, 1992.~~

Comment. Section 68611 is repealed as obsolete, because the report required by this section was due in 1991 and the section became inoperative in 1992.

Gov't Code § 68618.5 (repealed). Exemplary trial court delay reduction programs in Sonoma, Humboldt, Napa, Yolo, Fresno, San Joaquin, and Santa Barbara Counties

SEC. ___. Section 68618.5 of the Government Code is repealed.

~~68618.5. Notwithstanding any other provision of law, the Superior Courts of Sonoma, Humboldt, Napa, Yolo, Fresno, San Joaquin, and Santa Barbara Counties may establish exemplary delay reduction programs and adopt local delay reduction rules pursuant to this article. These rules are not subject to subdivision (b) of Section 68619.~~

~~This section shall cease to be operative on July 1, 1992.~~

Comment. Section 68618.5 is repealed as obsolete. This section became inoperative on July 1, 1992, by its own terms.

Gov't Code § 68620 (amended). Delay reduction program for limited civil cases

SEC. ___. Section 68620 of the Government Code is amended to read:

68620. (a) ~~Operative July 1, 1992, each municipal~~ Each superior court shall establish a delay reduction program for limited civil cases in consultation with the local bar that is consistent with the provisions of this article. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all procedures, standards, or policies for a delay reduction program ~~in municipal and justice~~ for limited civil cases in superior courts on a statewide basis which are consistent with the provisions of the Trial Court Delay Reduction Act.

(b) Actions and proceedings subject to the provisions of Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of Civil Procedure or provisions of Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure shall not be assigned to or governed by the provisions of any delay reduction program established pursuant to the section.

(c) It is the intent of the Legislature that the civil discovery in actions and proceedings subject to a program established pursuant to Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure shall be governed by the times and procedures specified in that article. Civil discovery in these actions and proceedings shall not be affected by the provisions of any delay reduction program adopted pursuant to this section.

Comment. Subdivision (a) of Section 68620 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Code Civ. Proc. § 85 (limited civil cases) & Comment.

Gov't Code § 69508.5 (amended). Presiding judge

SEC. ___. Section 69508.5 of the Government Code is amended to read:

69508.5. (a) In courts with two judges a presiding judge shall be selected by the judges each calendar year and the selection should be on the basis of administrative qualifications and interest.

(b) If a selection cannot be agreed upon, then the office of presiding judge shall be rotated each calendar year between the two judges, commencing with the senior judge. If the judges are of equal seniority, the first presiding judge shall be selected by lot.

(c) Notwithstanding subdivisions (a) and (b), the Judicial Council may provide by rule of court for the qualifications of the presiding judge.

(d) In a court with one judge, whether as the result of a vacancy in a judgeship or otherwise, a reference in a statute to the presiding judge means the sole judge of the court.

Comment. Subdivision (d) of Section 69508.5 generalizes provisions that formerly referred to the presiding judge "or sole judge." See Sections 23396, 68115, 68546, 69753, 71341, 72190, 72190.1, 72190.2, 72196; Code Civ. Proc. § 404.9; Penal Code §§ 924.4, 6031.1; Welf. & Inst. Code § 1737. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges).

Gov't Code § 69510 (amended). Superior court sessions at location of facility

SEC. ___. Section 69510 of the Government Code is amended to read:

69510. A majority of the judges of a superior court may order sessions of the court to be held at any place ~~where a municipal court holds sessions within the county or, in a county in which there is no municipal court,~~ where there is a court facility. The order shall be filed with the ~~county~~ clerk of the court and published as the judges may prescribe.

Comment. Section 69510 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70212(b) (preexisting court locations retained as superior court locations).

The section is also amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 69510.5 (amended). Sessions at any location within Orange County

SEC. ___. Section 69510.5 of the Government Code is amended to read:

69510.5. Notwithstanding any other provision of law, a majority of the judges of the Orange County Superior Court may, upon a finding that no suitable additional facilities exist in the county seat or ~~where municipal courts hold~~ other locations where the court regularly holds sessions, order sessions of the court to be held at any location within the county.

Comment. Section 69510.5 is amended to reflect unification of the municipal and superior courts in Orange County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 10, 1998.

Gov't Code § 69510.6 (amended). Sessions at Crestmoor High School in San Mateo County

SEC. ___. Section 69510.6 of the Government Code is amended to read:

69510.6. Notwithstanding any other provision of law, a majority of the judges of the San Mateo County Superior Court may, upon a finding that no suitable additional facilities exist in the county seat or ~~where municipal courts hold~~ other locations where the court holds sessions, order sessions of the court to be held at Crestmoor High School in San Bruno, California.

Comment. Section 69510.6 is amended to reflect unification of the municipal and superior courts in San Mateo County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 12, 1998.

Gov't Code § 69580 (amended). Number of judges in Alameda County

SEC. ___. Section 69580 of the Government Code is amended to read:

69580. In the County of Alameda there ~~shall be 35~~ are 69 judges of the superior court.

Comment. Section 69580 is amended to reflect unification of the municipal and superior courts in Alameda County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 31, 1998. See former Section 73075 (number of judges in Alameda County municipal courts).

Gov't Code § 69580.3 (added). Number of judges in Alpine County

SEC. ___. Section 69580.3 is added to the Government Code, to read:

69580.3. In the County of Alpine there are two judges of the superior court.

Comment. Section 69580.3 is added to reflect unification of the municipal and superior courts in Alpine County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69580.7 (added). Number of judges in Amador County

SEC. ___. Section 69580.7 is added to the Government Code, to read:

69580.7. In the County of Amador there are two judges of the superior court.

Comment. Section 69580.7 is added to reflect unification of the municipal and superior courts in Amador County pursuant to Article VI, Section 5(e), of the California Constitution, effective July, 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69581 (amended). Number of judges in Butte County

SEC. ___. Section 69581 of the Government Code is amended to read:

69581. In the County of Butte there ~~shall be six~~ are 10 judges of the superior court.

Comment. Section 69581 is amended to reflect unification of the municipal and superior courts in Butte County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See former Section 74935 (number of judges in Butte County municipal courts).

Gov't Code § 69581.3 (added). Number of judges in Calaveras County

SEC. ___. Section 69581.3 is added to the Government Code, to read:

69581.3. In the County of Calaveras there are two judges of the superior court.

Comment. Section 69581.3 is added to reflect unification of the municipal and superior courts in Calaveras County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69581.7 (added). Number of judges in Colusa County

SEC. ___. Section 69581.7 is added to the Government Code, to read:

69581.7. In the County of Colusa there are two judges of the superior court.

Comment. Section 69581.7 is added to reflect unification of the municipal and superior courts in Colusa County pursuant to Article VI, Section 5(e), of the California Constitution, effective September 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69582 (amended). Number of judges in Contra Costa County

SEC. ___. Section 69582 of the Government Code is amended to read:

69582. In the County of Contra Costa there are ~~19~~ 33 judges of the superior court.

Comment. Section 69582 is amended to reflect unification of the municipal and superior courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998. See former Section 73341 (number of judges in Contra Costa County municipal courts).

Gov't Code § 69582.3 (added). Number of judges in Del Norte County

SEC. ___. Section 69582.3 is added to the Government Code, to read:

69582.3. In the County of Del Norte there are two judges of the superior court.

Comment. Section 69582.3 is added to reflect unification of the municipal and superior courts in Del Norte County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69582.5 (amended). Number of judges in El Dorado County

SEC. ___. Section 69582.5 of the Government Code is amended to read:

69582.5. In the County of El Dorado there ~~shall be three~~ are six judges of the superior court.

Comment. Section 69582.5 is amended to reflect unification of the municipal and superior courts in El Dorado County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See former Section 71040.7 (number of judges in El Dorado County municipal courts).

Gov't Code § 69583 (amended). Number of judges in Fresno County

SEC. ___. Section 69583 of the Government Code is amended to read:

69583. In the County of Fresno there ~~shall be 18~~ <u>are 36</u> judges of the superior court.

Comment. Section 69583 is amended to reflect unification of the municipal and superior courts in Fresno County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See former Sections 73681, 73698.2 (number of judges in Fresno County municipal courts).

Gov't Code § 69583.5 (added). Number of judges in Glenn County

SEC. ___. Section 69583.5 is added to the Government Code, to read:

69583.5. In the County of Glenn there are two judges of the superior court.

Comment. Section 69583.5 is added to reflect unification of the municipal and superior courts in Glenn County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 31, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court judges in a county); see also former Section 74761 (number of judges in Glenn County municipal court).

Gov't Code § 69584 (amended). Number of judges in Humboldt County

SEC. ___. Section 69584 of the Government Code is amended to read:

69584. In the County of Humboldt there ~~shall be three~~ <u>are seven</u> judges of the superior court.

Comment. Section 69584 is amended to reflect unification of the municipal and superior courts in Humboldt County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 10, 1998. See former Section 73661.5 (number of judges in Humboldt County municipal courts).

Gov't Code § 69584.5 (amended). Number of judges in Imperial County

SEC. ___. Section 69584.5 of the Government Code is amended to read:

69584.5. In the County of Imperial there ~~shall be four~~ <u>are nine</u> judges of the superior court.

Comment. Section 69584.5 is amended to reflect unification of the municipal and superior courts in Imperial County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 22, 1998. See former Section 73731 (number of judges in Imperial County municipal courts).

Gov't Code § 69584.7 (added). Number of judges in Inyo County

SEC. ___. Section 69584.7 is added to the Government Code, to read:

69584.7. In the County of Inyo there are two judges of the superior court.

Comment. Section 69584.7 is added to reflect unification of the municipal and superior courts in Inyo County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69585 (amended). Number of judges in Kern County

SEC. ___. Section 69585 of the Government Code is amended to read:

69585. In the County of Kern there ~~shall be 16~~ <u>are 33</u> judges of the superior court.

Comment. Section 69585 is amended to reflect unification of the municipal and superior courts in Kern County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 2000. See former Section 73431 (number of judges in Kern County municipal courts).

Gov't Code § 69585.5 (amended). Number of judges in Kings County

SEC. ___. Section 69585.5 of the Government Code is amended to read:

69585.5. In the County of Kings there are ~~three~~ seven judges of the superior court.

Comment. Section 69585.5 is amended to reflect unification of the municipal and superior courts in Kings County pursuant to Article VI, Section 5(e), of the California Constitution, effective February 8, 2001. See former Sections 73392, 73401 (number of judges in Kings County municipal courts).

Gov't Code § 69585.7 (amended). Number of judges in Lake County

SEC. ___. Section 69585.7 of the Government Code is amended to read:

69585.7. In the County of Lake there ~~shall be one judge of the superior court; provided, that at such time as the board of supervisors finds there are sufficient funds for two judges and adopts a resolution to that effect, there shall be two~~ are four judges of the superior court.

Comment. Section 69585.7 is amended to reflect unification of the municipal and superior courts in Lake County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 30, 1998. See former Section 73581 (number of judges in Lake County municipal courts).

Gov't Code § 69585.9 (added). Number of judges in Lassen County

SEC. ___. Section 69585.9 is added to the Government Code, to read:

69585.9. In the County of Lassen there are two judges of the superior court.

Comment. Section 69585.9 is added to reflect unification of the municipal and superior courts in Lassen County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 31, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69586 (amended). Number of judges in Los Angeles County

SEC. ___. Section 69586 of the Government Code is amended to read:

69586. In the County of Los Angeles there are ~~239~~ 429 judges of the superior court~~, any one or more of whom may hold court~~.

Comment. Section 69586 is amended to reflect unification of the municipal and superior courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution, effective January 22, 2000. See former Sections 72602, 72602.1, 72602.2, 72602.3, 72602.4, 72602.5, 72602.6, 72602.7, 72602.9, 72602.11, 72602.12, 72602.13, 72602.14, 72602.15, 72602.20 (number of judges in Los Angeles County municipal courts). The last clause is deleted as unnecessary. *Cf.* Section 69741.5 (proceedings by "any one or more of the judges" sitting in superior court session effectual as though all judges of court presided at session).

Gov't Code § 69587 (amended). Number of judges in Madera County

SEC. ___. Section 69587 of the Government Code is amended to read:

69587. In the County of Madera there are ~~three~~ seven judges.

Comment. Section 69587 is amended to reflect unification of the municipal and superior courts in Madera County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See former Section 73752 (number of judges in Madera County municipal courts).

Gov't Code § 69588 (amended). Number of judges in Marin County

SEC. ___. Section 69588 of the Government Code is amended to read:

69588. In the County of Marin there ~~shall be six~~ are 10 judges.

Comment. Section 69588 is amended to reflect unification of the municipal and superior courts in Marin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 11, 1998. See former Section 73771 (number of judges in Marin County municipal courts).

Gov't Code § 69588.3 (added). Number of judges in Mariposa County

SEC. ___. Section 69588.3 is added to the Government Code, to read:

69588.3. In the County of Mariposa there are two judges of the superior court.

Comment. Section 69588.3 is added to reflect unification of the municipal and superior courts in Mariposa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court judges in a county); see also former Section 73783.2 (number of judges in Mariposa County municipal courts).

Gov't Code § 69588.7 (added). Number of judges in Mendocino County

SEC. ___. Section 69588.7 is added to the Government Code, to read:

69588.7. In the County of Mendocino there are eight judges of the superior court.

Comment. Section 69588.7 supersedes former Section 69608 for the purpose of alphabetization. It reflects unification of the municipal and superior courts in Mendocino County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See former Section 73784.1 (number of judges in Mendocino County municipal courts).

Gov't Code § 69589 (amended). Number of judges in Merced County

SEC. ___. Section 69589 of the Government Code is amended to read:

69589. In the County of Merced there ~~shall be three~~ are six judges of the superior court.

Comment. Section 69589 is amended to reflect unification of the municipal and superior courts in Merced County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See former Section 73791 (number of judges in Merced County municipal courts).

Gov't Code § 69589.3 (added). Number of judges in Modoc County

SEC. ___. Section 69589.3 is added to the Government Code, to read:

69589.3. In the County of Modoc there are two judges of the superior court.

Comment. Section 69589.3 is added to reflect unification of the municipal and superior courts in Modoc County pursuant to Article VI, Section 5(e), of the California Constitution, effective September 20, 1999. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69589.7 (added). Number of judges in Mono County

SEC. ___. Section 69589.7 is added to the Government Code, to read:

69589.7. In the County of Mono there are two judges of the superior court.

Comment. Section 69589.7 is added to reflect unification of the municipal and superior courts in Mono County pursuant to Article VI, Section 5(e), of the California Constitution, effective February 1, 1999. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69590 (amended). Number of judges in Monterey County

SEC. ___. Section 69590 of the Government Code is amended to read:

69590. In the County of Monterey there ~~shall be eight~~ are 18 judges of the superior court.

Comment. Section 69590 is amended to reflect unification of the municipal and superior courts in Monterey County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 18, 2000. See former Section 73562 (number of judges in Monterey County municipal courts).

Gov't Code § 69590.5 (amended). Number of judges in Napa County

SEC. ___. Section 69590.5 of the Government Code is amended to read:

69590.5. In the County of Napa there ~~shall be two~~ are six judges of the superior court~~; provided, that at such time as the board of supervisors finds, on or after January 1, 1984, that there are funds for an additional superior court judge and adopts a resolution to that effect, there shall be three judges~~.

Comment. Section 69590.5 is amended to reflect unification of the municipal and superior courts in Napa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See former Section 74949 (number of judges in Napa County municipal courts).

Gov't Code § 69590.7 (amended). Number of judges in Nevada County

SEC. ___. Section 69590.7 of the Government Code is amended to read:

69590.7. In the County of Nevada there are ~~three~~ six judges of the superior court.

Comment. Section 69590.7 is amended to reflect unification of the municipal and superior courts in Nevada County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See former Section 73821 (number of judges in Nevada County municipal courts).

Gov't Code § 69591 (amended). Number of judges in Orange County

SEC. ___. Section 69591 of the Government Code is amended to read:

69591. In the County of Orange there are ~~62~~ 109 judges of the superior court.

Comment. Section 69591 is amended to reflect unification of the municipal and superior courts in Orange County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 10, 1998. See former Section 74001 (number of judges in Orange County municipal courts).

Gov't Code § 69591.3 (added). Number of judges in Placer County

SEC. ___. Section 69591.3 is added to the Government Code, to read:

69591.3. In the County of Placer there are nine judges of the superior court.

Comment. Section 69591.3 supersedes former Section 69609 for the purpose of alphabetization. It reflects unification of the municipal and superior courts in Placer County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 30, 1998. See former Section 74021 (number of judges in Placer County municipal courts).

Gov't Code § 69591.7 (added). Number of judges in Plumas County

SEC. ___. Section 69591.7 is added to the Government Code, to read:

69591.7. In the County of Plumas there are two judges of the superior court.

Comment. Section 69591.7 is added to reflect unification of the municipal and superior courts in Plumas County pursuant to Article VI, Section 5(e), of the California Constitution, effective

July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69592 (amended). Number of judges in Riverside County

SEC. ___. Section 69592 of the Government Code is amended to read:

69592. In the County of Riverside there are ~~27~~ 49 judges of the superior court.

Comment. Section 69592 is amended to reflect unification of the municipal and superior courts in Riverside County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 29, 1998. See former Section 74131 (number of judges in Riverside County municipal courts).

Gov't Code § 69593 (amended). Number of judges in Sacramento County

SEC. ___. Section 69593 of the Government Code is amended to read:

69593. In the County of Sacramento there are ~~35~~ 52 judges of the superior court.

Comment. Section 69593 is amended to reflect unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998. See former Sections 73871, 74191, 74206 (number of judges in Sacramento County municipal courts).

Gov't Code § 69593.5 (added). Number of judges in San Benito County

SEC. ___. Section 69593.5 is added to the Government Code, to read:

69593.5. In the County of San Benito there are two judges of the superior court.

Comment. Section 69593.5 is added to reflect unification of the municipal and superior courts in San Benito County pursuant to Article VI, Section 5(e), of the California Constitution, effective September 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69594 (amended). Number of judges in San Bernardino County

SEC. ___. Section 69594 of the Government Code is amended to read:

69594. In the County of San Bernardino there are ~~33~~ 63 judges of the superior court.

Comment. Section 69594 is amended to reflect unification of the municipal and superior courts in San Bernardino County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 10, 1998. See former Section 73101.5 (number of judges in San Bernardino County municipal courts).

Gov't Code § 69595 (amended). Number of judges in San Diego County

SEC. ___. Section 69595 of the Government Code is amended to read:

69595. In the County of San Diego there are ~~72~~ 128 judges of the superior court.

Comment. Section 69595 is amended to reflect unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. See former Sections 73641, 73951, 74341, 74741 (number of judges in San Diego County municipal courts).

Gov't Code § 69595.5 (amended). Concurrent daily sessions

SEC. ___. Section 69595.5 of the Government Code is amended to read:

69595.5. Notwithstanding the provisions of Article 5 (commencing with Section 69740) of Chapter 5 of Title 8, in the County of San Diego, one or more judges of the superior court shall hold concurrent daily sessions in the City of Vista, two or more judges of the superior court shall hold concurrent daily sessions in the City of El Cajon,

and one judge of the superior court shall hold concurrent daily sessions within the former South Bay Municipal Court District.

Comment. Section 69595.5 is amended to reflect unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication). The boundaries of the former South Bay Municipal Court District are described in Section 74740.

Gov't Code § 69596 (amended). Number of judges in City and County of San Francisco

SEC. ___. Section 69596 of the Government Code is amended to read:

69596. In the City and County of San Francisco there are ~~30~~ 50 judges of the superior court~~, any one or more of whom may hold court~~.

Comment. Section 69596 is amended to reflect unification of the municipal and superior courts in the City and County of San Francisco pursuant to Article VI, Section 5(e), of the California Constitution, effective December 31, 1998. See former Section 74501 (number of judges in City and County of San Francisco municipal courts). The last clause is deleted as unnecessary. *Cf.* Section 69741.5 (proceedings by "any one or more of the judges" sitting in superior court session effectual as though all judges of court presided at session).

Gov't Code § 69598 (amended). Number of judges in San Joaquin County

SEC. ___. Section 69598 of the Government Code is amended to read:

69598. In the County of San Joaquin there are ~~14~~ 26 judges of the superior court.

Comment. Section 69598 is amended to reflect unification of the municipal and superior courts in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998. See former Sections 73481, 73702, 74801 (number of judges in San Joaquin County municipal courts).

Gov't Code § 69598.5 (added). Number of judges in San Luis Obispo County

SEC. ___. Section 69598.5 is added to the Government Code, to read:

69598.5. In the County of San Luis Obispo there are 11 judges of the superior court.

Comment. Section 69598.5 supersedes former Section 69613 for the purpose of alphabetization. It reflects unification of the municipal and superior courts in San Luis Obispo County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See former Section 74601 (number of judges in San Luis Obispo County municipal courts).

Gov't Code § 69599 (amended). Number of judges in San Mateo County

SEC. ___. Section 69599 of the Government Code is amended to read:

69599. In San Mateo County there are ~~16 judges of the superior court. However, at such time as the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 17~~ 26 judges of the superior court.

Comment. Section 69599 is amended to reflect unification of the municipal and superior courts in San Mateo County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 12, 1998. See former Section 73521 (number of judges in San Mateo County municipal courts).

Gov't Code § 69599.5 (amended). Number of judges in Santa Barbara County

SEC. ___. Section 69599.5 of the Government Code is amended to read:

69599.5. ~~(a)~~ In the County of Santa Barbara there ~~shall be 10~~ are 19 judges of the superior court.

~~(b) Notwithstanding Section 247 of the Welfare and Institutions Code, no juvenile court referee or referees may be appointed in the County of Santa Barbara~~.

Comment. Subdivision (a) of Section 69599.5 is amended to reflect unification of the municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See former Section 74641 (number of judges in Santa Barbara County municipal courts).

Subdivision (b) is deleted to reflect enactment of the Trial Court Employment Protection and Governance Act. See Section 71622 (subordinate judicial officers).

Gov't Code § 69600 (amended). Number of judges in Santa Clara County

SEC. ___. Section 69600 of the Government Code is amended to read:

69600. In the County of Santa Clara there ~~shall be 34 judges of the superior court. However, at such time as the Santa Clara County Board of Supervisors finds that there are sufficient funds for up to 10 additional judges, and adopts a resolution or resolutions to that effect, there shall be up to 44~~ are 79 judges of the superior court.

Comment. Section 69600 is amended to reflect unification of the municipal and superior courts in Santa Clara County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 30, 1998. See former Section 74661 (number of judges in Santa Clara County municipal courts).

Gov't Code § 69600.5 (added). Number of judges in Santa Cruz County

SEC. ___. Section 69600.5 is added to the Government Code, to read:

69600.5. In the County of Santa Cruz there are 10 judges of the superior court.

Comment. Section 69600.5 supersedes former Section 69614 for the purpose of alphabetization. It reflects unification of the municipal and superior courts in Santa Cruz County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See former Section 74691 (number of judges in Santa Cruz County municipal courts).

Gov't Code § 69601 (amended). Number of judges in Shasta County

SEC. ___. Section 69601 of the Government Code is amended to read:

69601. In the County of Shasta there ~~shall be five~~ are nine judges of the superior court.

Comment. Section 69601 is amended to reflect unification of the municipal and superior courts in Shasta County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See former Section 74981 (number of judges in Shasta County municipal courts).

Gov't Code § 69601.3 (added). Number of judges in Sierra County

SEC. ___. Section 69601.3 is added to the Government Code, to read:

69601.3. In the County of Sierra there are two judges of the superior court.

Comment. Section 69601.3 is added to reflect unification of the municipal and superior courts in Sierra County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69601.7 (added). Number of judges in Siskiyou County

SEC. ___. Section 69601.7 is added to the Government Code, to read:

69601.7. In the County of Siskiyou there are four judges of the superior court.

Comment. Section 69601.7 is added to reflect unification of the municipal and superior courts in Siskiyou County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 4, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal

court judges in a county); see also former Section 74721 (number of judges in Siskiyou County municipal court).

Gov't Code § 69602 (amended). Number of judges in Solano County

SEC. ___. Section 69602 of the Government Code is amended to read:

69602. In the County of Solano there ~~shall be nine~~ are 16 judges of the superior court.

Comment. Section 69602 is amended to reflect unification of the municipal and superior courts in Solano County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See former Sections 73672, 74841 (number of judges in Solano County municipal courts).

Gov't Code § 69603 (amended). Number of judges in Sonoma County

SEC. ___. Section 69603 of the Government Code is amended to read:

69603. In the County of Sonoma there ~~shall be 10~~ are 16 judges of the superior court.

Comment. Section 69603 is amended to reflect unification of the municipal and superior courts in Sonoma County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 12, 1998. See former Section 74708 (number of judges in Sonoma County municipal courts).

Gov't Code § 69604 (amended). Number of judges in Stanislaus County

SEC. ___. Section 69604 of the Government Code is amended to read:

69604. In the County of Stanislaus there ~~shall be nine~~ are 17 judges of the superior court.

Comment. Section 69604 is amended to reflect unification of the municipal and superior courts in Stanislaus County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 31, 1998. See former Section 74781 (number of judges in Stanislaus County municipal courts).

Gov't Code § 69604.3 (added). Number of judges in Sutter County

SEC. ___. Section 69604.3 is added to the Government Code, to read:

69604.3. In the County of Sutter there are five judges of the superior court.

Comment. Section 69604.3 supersedes former Section 69615 for the purpose of alphabetization. It reflects unification of the municipal and superior courts in Sutter County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See former Section 74831 (number of judges in Sutter County municipal courts).

Gov't Code § 69604.5 (added). Number of judges in Tehama County

SEC. ___. Section 69604.5 is added to the Government Code, to read:

69604.5. In the County of Tehama there are four judges of the superior court.

Comment. Section 69604.5 supersedes former Section 69607 for the purpose of alphabetization. It reflects unification of the municipal and superior courts in Tehama County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See former Section 74861 (number of judges in Tehama County municipal courts).

Gov't Code § 69604.7 (added). Number of judges in Trinity County

SEC. ___. Section 69604.7 is added to the Government Code, to read:

69604.7. In the County of Trinity there are two judges of the superior court.

Comment. Section 69604.7 is added to reflect unification of the municipal and superior courts in Trinity County pursuant to Article VI, Section 5(e), of the California Constitution, effective

July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court judges in a county).

Gov't Code § 69605 (amended). Number of judges in Tulare County

SEC. ___. Section 69605 of the Government Code is amended to read:

69605. In the County of Tulare there ~~shall be seven~~ are 16 judges of the superior court.

Comment. Section 69605 is amended to reflect unification of the municipal and superior courts in Tulare County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 27, 1998. See former Section 74921 (number of judges in Tulare County municipal courts).

Gov't Code § 69605.5 (amended). Number of judges in Tuolumne County

SEC. ___. Section 69605.5 of the Government Code is amended to read:

69605.5. In the County of Tuolumne there ~~shall be one judge of the superior court. However, at such time, on or after January 1, 1988, as the Board of Supervisors of the County of Tuolumne finds sufficient funds for two judges and adopts a resolution to that effect, there shall be two~~ are four judges of the superior court.

Comment. Section 69605.5 is amended to reflect unification of the municipal and superior courts in Tuolumne County pursuant to Article VI, Section 5(e), of the California Constitution, effective April 23, 1999. See former Section 74994 (number of judges in Tuolumne County municipal courts).

Gov't Code § 69606 (amended). Number of judges in Ventura County

SEC. ___. Section 69606 of the Government Code is amended to read:

69606. In the County of Ventura there ~~shall be 16~~ are 28 judges of the superior court.

Comment. Section 69606 is amended to reflect unification of the municipal and superior courts in Ventura County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 10, 1998. See former Section 74901 (number of judges in Ventura County municipal courts).

Gov't Code § 69607 (repealed). Number of judges in Tehama County

SEC. ___. Section 69607 of the Government Code is repealed.

~~69607. In the County of Tehama there shall be two judges of the superior court.~~

Comment. Section 69607 is superseded by Section 69604.5 for the purpose of alphabetization.

Gov't Code § 69608 (repealed). Number of judges in Mendocino County

SEC. ___. Section 69608 of the Government Code is repealed.

~~69608. In the County of Mendocino there are three judges of the superior court.~~

Comment. Section 69608 is superseded by Section 69588.7 for the purpose of alphabetization.

Gov't Code § 69609 (repealed). Number of judges in Placer County

SEC. ___. Section 69609 of the Government Code is repealed.

~~69609. In the County of Placer there shall be five judges of the superior court.~~

Comment. Section 69609 is superseded by Section 69591.3 for the purpose of alphabetization.

Gov't Code § 69610 (amended). Number of judges in Yolo County

SEC. ___. Section 69610 of the Government Code is amended to read:

69610. In the County of Yolo there are ~~five~~ nine judges of the superior court.

Comment. Section 69610 is amended to reflect unification of the municipal and superior courts in Yolo County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See former Section 74961 (number of judges in Yolo County municipal courts).

Gov't Code § 69611 (amended). Number of judges in Yuba County

SEC. ___. Section 69611 of the Government Code is amended to read:

69611. In the County of Yuba there ~~shall be three~~ are five judges of the superior court.

Comment. Section 69611 is amended to reflect unification of the municipal and superior courts in Yuba County pursuant to Article VI, Section 5(e), of the California Constitution, effective April 16, 1999. See former Section 74915.5 (number of judges in Yuba County municipal courts).

Gov't Code § 69613 (repealed). Number of judges in San Luis Obispo County

SEC. ___. Section 69613 of the Government Code is repealed.

~~69613. In the County of San Luis Obispo there are six judges of the superior court.~~

Comment. Section 69613 is superseded by Section 69598.5 for the purpose of alphabetization.

Gov't Code § 69614 (repealed). Number of judges in Santa Cruz County

SEC. ___. Section 69614 of the Government Code is repealed.

~~69614. In the County of Santa Cruz there are four judges of the superior court. However, if the board of supervisors finds that there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be five judges.~~

Comment. Section 69614 is superseded by Section 69600.5 for the purpose of alphabetization.

Gov't Code § 69615 (repealed). Number of judges in Sutter County

SEC. ___. Section 69615 of the Government Code is repealed.

~~69615. In the County of Sutter there are three judges of the superior court.~~

Comment. Section 69615 is superseded by Section 69604.3 for the purpose of alphabetization.

Gov't Code § 69648 (repealed). Traveling expenses in Los Angeles County

SEC. ___. Section 69648 of the Government Code is repealed.

~~69648. Whenever, pursuant to this article or Section 68099, in the assignment of the business of the superior court it becomes necessary for a judge, clerk, deputy clerk, or court reporter who is regularly assigned to duty at a location in one district to travel to another location in the same or another district, for temporary attendance at a session of the superior court, he shall be allowed his necessary expenses in going to, returning from, and attending upon the business of such court. Such expense is a charge against the treasury of the county and shall be paid out of the general fund.~~

~~Whenever a judge of a municipal court within a county is assigned to sit as a judge of the superior court of the said county, he shall be regularly assigned to duty at a location within one of the districts by the presiding judge, and shall thereupon be entitled to the benefits of this section.~~

Comment. Section 69648 is repealed to reflect:

(1) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(2) Unification of the municipal and superior courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution, effective January 22, 2000.

Gov't Code § 69649 (amended). Superior court sessions in Los Angeles County

SEC. ___. Section 69649 of the Government Code is amended to read:

69649. When a majority of the judges of the superior court deem it necessary or advisable, by order filed with the ~~county~~ clerk of the court and published as they may prescribe, they may direct that a session of the court be held at least once a week at any designated place in a district, not less than 30 miles distant from the nearest regular

location of the sessions of the superior court in that district, measured by airline. The majority of the judges may limit the type of judicial proceedings which may be heard by the court at such place to probate, guardianship, conservatorship, and domestic relations matters, including but not limited to orders to show cause proceedings in domestic relations matters.

Comment. Section 69649 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 69741 (amended). Regular and special sessions

SEC. ___. Section 69741 of the Government Code is amended to read:

69741. Except as otherwise provided by Section ~~68099~~ 68115, each superior court shall hold its sessions:

(a) At the location or locations in each superior court district specified by ordinance adopted pursuant to Article 4 (commencing at Section 69640) of this chapter.

(b) In every county in which such an ordinance is not in effect, at the county seat and at such other locations, if any, as provided in this article.

The superior court shall hold regular sessions commencing on the first Mondays of January, April, July, and October, and special sessions at such other times as may be prescribed by the ~~judge or~~ judges of the court, except that in the City and County of San Francisco the presiding judge shall prescribe the times of holding such special sessions.

Comment. Section 69741 is amended to correct the reference to former Section 68099.

The section is also amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13 (plural includes singular).

Gov't Code § 69743 (amended). Superior court additional sessions

SEC. ___. Section 69743 of the Government Code is amended to read:

69743. By an order filed with the ~~county~~ clerk of the court and published as a majority of the judges of the superior court of the county prescribe, such a majority, when it deems it necessary or convenient, may provide for and direct the holding of additional sessions in each of the cities described in Section 69742.

Comment. Section 69743 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Gov't Code § 69744 (amended). Superior court sessions at various locations

SEC. ___. Section 69744 of the Government Code is amended to read:

69744. When the ~~judge or~~ judges of the superior court of a county deem it necessary or advisable, by order filed with the ~~county~~ clerk of the court and published as ~~he or~~ they prescribe, ~~he or~~ they may direct that the court be held or continued:

(a) At any place in the county, not less than 120 miles distant from the county seat.

(b) At any other city in the county with a population of not less than 7,000, in which the city hall is not less than 55 miles from the site of the county courthouse.

(c) At any other city in the county with a population of not less than 2,200 in which the city hall is not less than 60 miles from the site of the county courthouse.

Comment. Section 69744 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

The section is also amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13 (plural includes singular).

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

SEC. ___. Section 69744.5 of the Government Code is amended to read:

69744.5. When ~~the judge, or~~ a majority of the judges~~,~~ of the superior court deem it necessary or advisable, by order filed with the ~~county~~ clerk of the court and published as the ~~judge or~~ judges prescribe, the ~~judge or~~ judges may direct that the court be held at least once a week at any designated place in the county, not less than 45 miles distant from the county seat, measured by air line. The place designated shall be within a former judicial district~~, or former district in a county in which there is no municipal court~~, composed wholly of unincorporated territory, with a population of more than 40,000 as determined pursuant to Section 71043. ~~The judge or a~~ A majority of the judges may limit the type of judicial proceedings which may be heard by the court at such place to probate matters and matters relating to domestic relations.

Comment. Section 69744.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70212(b) (preexisting court locations retained as superior court locations).

The section is also amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

The section is also amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13 (plural includes singular).

Gov't Code § 69750 (repealed). Travel within county to city where not regularly assigned

SEC. ___. Section 69750 of the Government Code is repealed.

~~69750. Whenever, pursuant to this article or subdivision (a) of Section 68115, in the assignment of the business of the superior court it becomes necessary for a judge, clerk, deputy clerk, court reporter, or secretary, who is regularly assigned to duty at the county seat or at a city outside of the county seat where a session of the superior court is held to travel to a city other than that to which such person is regularly assigned for temporary attendance at a session of the superior court, such persons shall be allowed their necessary expenses in going to, returning from, and attending upon the business of such court. Such expense is a charge against the treasury of the county and shall be paid out of the general fund.~~

~~Whenever a judge of a municipal court within a county is assigned to sit as a judge of the superior court of said county, such judge shall be regularly assigned to duty at the county seat or at a city outside the county seat by the presiding judge, and shall thereupon be entitled to the benefits of this section.~~

Comment. Section 69750 is repealed to reflect:

(1) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(2) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 69753 (repealed). Superior court session at municipal court location

SEC. ___. Section 69753 of the Government Code is repealed.

~~69753. (a) Notwithstanding any other provision of this code, the presiding or sole judge of a superior court may, if the session is held in furtherance of a coordination plan approved under Section 68112 or in the absence of a timely objection in a civil case or proceeding or with the express consent of the parties in a criminal action, direct that a session of the court be held at any place in the county where a municipal court regularly conducts sessions, if:~~

~~(1) The judge presiding at the superior court session is a judge of a municipal court or a retired judge assigned to serve as a superior court judge under Section 6 of Article VI of the California Constitution.~~

~~(2) The presiding or sole judge of the municipal court has informed the presiding judge of the superior court that the superior court session will not interfere with the normal conduct of municipal court business.~~

~~(b) The Judicial Council shall provide by rule for the timely filing of any objection to hearing a civil matter at a municipal court location, and for obtaining the consent of the parties in a criminal action.~~

Comment. Section 69753 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations).

Gov't Code § 69801 (repealed). Extra sessions in San Bernardino County

SEC. ___. Section 69801 of the Government Code is repealed.

~~69801. (a) The Board of Supervisors of San Bernardino County may, with the concurrence of the majority of the judges of the superior court in the county and the Director of the Department of Corrections, lease a portion of any institution of the department located within the county to establish a pilot project for the purpose of holding extra sessions of the superior court in a facility located upon the grounds of the institution. The lease agreement shall be entered into pursuant to Section 14670 of this code for a period up to 50 years. The facility for housing the superior court shall be~~

~~constructed so that it is separate and apart from any existing facilities of the department. The extra sessions shall not be held until the facility housing the superior court is completed and available for occupancy by the court and sufficient funds are made available for the operation of the court. The costs of the construction of any facility constructed for such purpose shall be borne by the county.~~

~~(b) The court sessions held pursuant to subdivision (a) shall not contravene any limitations imposed on the place such court sessions may be held.~~

~~(c) The Judicial Council shall report to the Legislature on the operation of any court which is holding extra sessions pursuant to subdivision (a). The report shall be filed not later than the end of the second calendar year during which the extra sessions have been held.~~

Comment. Section 69801 is repealed as obsolete. The pilot project was never established and is no longer necessary. See Penal Code § 977 (video arraignments).

Gov't Code § 69840 (added). Powers, duties, and responsibilities of clerk of court and deputy clerk of court

SEC. ___. Section 69840 is added to the Government Code, to read:

69840. (a) The clerk of the court shall exercise or perform, in addition to the powers, duties, and responsibilities provided by statute, any powers, duties, and responsibilities required or permitted to be exercised by the county clerk in connection with judicial actions, proceedings, and records. The county clerk is relieved of any obligation imposed by law on the county clerk with respect to these powers, duties, and responsibilities.

(b) A deputy court clerk is subject to the provisions of Article 7 (commencing with Section 1190) of Chapter 1 of Division 4 of Title 1.

Comment. Section 69840 is added to reflect:

(1) Elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See also Section 71620 (trial court personnel).

(2) The corresponding elimination of the deputy county clerk's role as ex officio deputy clerk of the superior court. See Section 24100 (deputy included in principal's name). Subdivision (b) makes clear that Article 7 (commencing with Section 1190) of Chapter 1 of Division 4 of Title 1 applies to deputy court clerks. See also Section 71620 Comment (Article 7 applicable to all deputy court officers).

Gov't Code § 69890 (repealed). Secretary to the judges

SEC. ___. Section 69890 of the Government Code is repealed.

~~69890. In each county with a population of 300,000 and over, the judges of the superior court may appoint a secretary, who shall hold office at their pleasure and perform such duties as may be required of him by the court or the judges. The salary of the secretary shall be two hundred fifty dollars ($250) a month. The salary shall be audited, allowed, and paid out of the general fund of the county.~~

Comment. Section 69890 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system).

(2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code § 69891.1 (repealed). Secretary to the judges in Solano County

SEC. ___. Section 69891.1 of the Government Code is repealed.

~~69891.1. In each county with a population of less than 145,000 and more than 130,000, as determined by the 1960 census, to assist the court in the transaction of its judicial business, the judges of the court may appoint one competent judicial secretary skilled in such work for each judge of the superior court of the county who is to render such service as the judge may require each day.~~

~~The judicial secretary shall be eligible for such retirement, insurance, or other benefits as may be available to county employees.~~

~~The monthly salary, classification, and within-range advancement of each judicial secretary shall be established and adjusted by approval of the board of supervisors and a majority of the judges of the court. The salary shall be allowed, paid, and audited from the same source and in the same manner as may be required for other salary demands against the county.~~

Comment. Section 69891.1 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

(2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code § 69891.5 (repealed). Salary of judicial secretary or stenographer in Sonoma County

SEC. ___. Section 69891.5 of the Government Code is repealed.

~~69891.5. In each county with a population of less than 104,000 and more than 103,000, as determined by the 1950 Census, the monthly salaries of the stenographer or secretary to the judge of the superior court shall be fixed in the manner prescribed in Section 69892, except that the minimum salary for any stenographer or secretary to the judge shall be three hundred fifty dollars ($350) per month.~~

Comment. Section 69891.5 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries).

Gov't Code § 69892 (repealed). Judicial secretaries

SEC. ___. Section 69892 of the Government Code is repealed.

~~69892. In a county having a population of over 82,000 and not over 1,500,000 as determined by the 1960 federal census, the judge of the superior court may appoint a secretary and two assistant secretaries and not to exceed one additional assistant secretary for each department of the superior court in the county over three. Such appointees shall be exempt from civil service. The board of supervisors shall fix the salary of the secretary and assistant secretaries at rates equivalent to the salary rate of county employees holding comparable positions under the county civil service or merit system, or if there is none, at rates equivalent to salary rate of county employees holding comparable positions. The salary of the secretary shall not be less than three hundred dollars ($300) a month and the salary of an assistant secretary shall not be less than two hundred seventy-five dollars ($275) a month.~~

Comment. Section 69892 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code § 69892.1 (repealed). Court executive officer/clerk in Los Angeles County

SEC. ___. Section 69892.1 of the Government Code is repealed.

~~69892.1. Notwithstanding any applicable county charter provision to the contrary, a majority of the judges of the superior court in any county with a population of over 7,000,000 as determined by the 1980 federal census shall appoint an executive officer/clerk of the superior court who shall hold office at the pleasure of the court and shall exercise administrative powers and perform other duties as may be required of him or her. The court shall fix the qualifications of the officer and may delegate to that officer any administrative powers and duties as are now or may hereafter by law be vested in or required to be exercised by the court. The executive officer/clerk of the superior court shall prepare an annual report and other reports as may be directed by the court. The annual salary of the executive officer/clerk of the superior court shall be as provided in Section 69894.1. He or she shall be allowed actual traveling and other necessary expenses while engaged in the discharge of the duties of his or her office.~~

Comment. Section 69892.1 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71673 (authority of court).

(2) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

Gov't Code § 69893.5 (repealed). Court personnel in Sacramento County

SEC. ___. Section 69893.5 of the Government Code is repealed.

~~69893.5. (a) In each county with a population of 480,000 and not more than 503,000, as determined by the 1960 Federal Census, the superior court may establish such titles as are required and, with the approval of the board of supervisors, may appoint and employ a court administrator, probate file examiner, master calendar clerk, legal secretaries, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Rates of compensation of all officers, assistants, and other employees may be established and adjusted by the board of supervisors.~~

~~(b) Notwithstanding any other provision of law, juvenile court referees appointed pursuant to Section 247 of the Welfare and Institutions Code and superior court commissioners in this county shall receive a salary equal to 85 percent of the annual salary for a superior court judge and shall earn vacation credit at the rate of 6.5 hours for each biweekly pay period of full-time service, except that a juvenile court referee appointed by the court prior to August 28, 1990, and who has been employed by the county since August 5, 1974, at the time of the appointment shall be entitled to earn vacation credit at the rate of 7.7 hours for each biweekly pay period of full-time service.~~

~~(c) The presiding judge of the superior and municipal courts may authorize a court commissioner and juvenile court referees to exercise all the powers and perform all the duties authorized by law to be performed by a commissioner of the superior court, a commissioner of the municipal court appointed pursuant to Section 72190, and a referee~~

~~of the juvenile court appointed pursuant to Section 247 of the Welfare and Institutions Code.~~

Comment. Section 69893.5 is repealed to reflect:

(1) Unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71625 (accrued leave benefits), 71640-71645 (employment selection and advancement), 71673 (authority of court).

Gov't Code § 69894 (repealed). Court personnel in Los Angeles County

SEC. ___. Section 69894 of the Government Code is repealed.

~~69894. In the County of Los Angeles, a majority of the judges of the superior court may appoint the following officers and employees:~~

☞ **Note.** To conserve resources, the table of positions has not been reproduced.

~~All personnel appointed pursuant to this article shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.~~

Comment. Section 69894 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Section 69941 (appointment of official reporters).

Gov't Code § 69894.1 (repealed). Salaries of court personnel in Los Angeles County

SEC. ___. Section 69894.1 of the Government Code is repealed.

~~69894.1. (a) Officers and employees of the superior court shall receive a monthly salary at a rate specified in the Los Angeles County Code as follows:~~

☞ **Note.** To conserve resources, the salary schedule has not been reproduced.

~~Whenever a reference to numbered salary schedules and notes is made in this section, those found in the Los Angeles County Code, Title 6, shall apply. Whenever the compensation of superior court judges is adjusted, the flat rate salaries for court commissioners and referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.~~

~~As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes are used instead of schedule numbers:~~

~~F--Flat rate per month.~~

~~FD--Flat rate per day.~~

~~FH--Flat rate per hour.~~

~~As defined in the Los Angeles County Code, Section 6.28.040, the following abbreviation is used in conjunction with or instead of schedule or range numbers:~~

~~N--Note (refers to Notes at end of Section 6.28.050).~~

~~"R" or "A" indicates a position's inclusion in the County's Management Appraisal and Performance Plan. The grade number following the "R" or "A" designation indicates the salary range. Compensation of these positions is in accordance with Sections 6.08.300 to 6.08.380, inclusive, of the county code.~~

~~(b) This section shall become operative on January 1, 2001.~~

Comment. Section 69894.1 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71673 (authority of court).

Gov't Code § 69895 (repealed). Court executive officer in City and County of San Francisco

SEC. ___. Section 69895 of the Government Code is repealed.

~~69895. In the City and County of San Francisco, the superior court shall appoint an executive officer who shall act as a secretary to the judges of the superior court and perform the duties of jury commissioner pursuant to Section 69893 and all duties of a court administrator as described in Section 69898.~~

~~On the authorization of the judges, the executive officer shall have an assistant executive officer who shall assist in the performance of the duties of Sections 69893 and 69898.~~

~~The court may delegate to the executive officer any administrative powers and duties as are now or hereafter by law may be vested in or required to be exercised by such court.~~

~~The salaries of the executive officer and assistant executive officer shall be paid by the city and county.~~

Comment. Section 69895 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries). See also Code Civ. Proc. § 195 (jury commissioner).

(2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code § 69896 (repealed). Secretary serving as jury commissioner

SEC. ___. Section 69896 of the Government Code is repealed.

~~69896. In a county with a population of less than 1,500,000 as ascertained pursuant to the 1960 federal census where the secretary for the judges of the superior court is required to perform the duties of jury commissioner pursuant to Section 69893, the salary of the secretary shall be fixed by the board of supervisors.~~

Comment. Section 69896 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Section 71623 (salaries). See also Code Civ. Proc. § 195 (jury commissioner).

Gov't Code § 69897 (repealed). Probate commissioners

SEC. ___. Section 69897 of the Government Code is repealed.

~~69897. The superior court of any county with a population of over 600,000 and under 900,000 may appoint a probate commissioner to assist the probate court in disposing of its business connected with the administration of justice. The person appointed shall be designated as probate commissioner of such county. He shall be a citizen of the United States, a resident of this State and have been admitted to practice before the Supreme Court of this State. He shall hold office during the pleasure of the courts appointing him.~~

~~The appointment of the probate commissioner shall be made by order entered in the minutes of the court.~~

~~Every probate commissioner so appointed shall be in attendance at all sessions of the court. He shall examine all the files and proceedings and advise the court on them. He shall have the powers and duties delegated to him by the appointing court, including the powers conferred on court commissioners by this title or the Code of Civil Procedure.~~

Comment. Section 69897 is superseded by Section 71622 (subordinate judicial officers) and Code of Civil Procedure Section 259 (powers of court commissioners).

Gov't Code § 69898 (repealed). Appointment of court executive officer

SEC. ___. Section 69898 of the Government Code is repealed.

~~69898. (a) Any superior court may appoint an executive officer who shall hold office at the pleasure of the court and shall exercise such administrative powers and perform such other duties as may be required of him by the court. The court shall fix the qualifications of the executive officer and may delegate to him any administrative powers and duties required to be exercised by the court. He shall supervise the secretaries of the judges of the court and perform, or supervise the performance of, the duties of jury commissioner. The salary of the executive officer shall be fixed by the court and shall be paid by the county in which he serves. Each such position shall be exempt from civil service laws.~~

~~Any superior court may appoint the county clerk as executive officer, who shall hold office as such executive officer at the pleasure of the court and shall exercise such administrative powers and perform such other duties as may be required of such person by the court.~~

~~(b) Any superior court for which a specific authorization to have an executive or administrative officer has been enacted by the Legislature may elect to proceed under its specific authorization or under this section, but not under both.~~

~~(c) In every superior court having an executive or administrative officer appointed under the provisions of this section or under a specific statutory authorization, that officer has the authority of a clerk of the superior court.~~

~~(d) Notwithstanding any other provision of law, a superior court having an executive or administrative officer may, by local rule, specify which of the powers, duties and responsibilities required or permitted to be exercised or performed by the county clerk in connection with judicial actions, proceedings and records shall be exercised or performed by the executive or administrative officer. The county clerk shall be relieved of any obligation imposed on him by law with respect to these specified powers, duties and responsibilities, to the extent the local rule imposes on the executive or administrative officer the same powers, duties and responsibilities.~~

Comment. Section 69898 is superseded by Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court) and 71620 (trial court personnel).

Gov't Code § 69899.5 (repealed). Court personnel in Orange County

SEC. ___. Section 69899.5 of the Government Code is repealed.

~~69899.5. In the County of Orange, a majority of the judges of the superior court may appoint or delegate authority to the Superior Court Chief Executive Officer to appoint officers and employees whose salaries shall be pursuant to the Table of Classifications and Salary Schedules adopted by the Executive Committee of the Superior Court.~~

~~Pursuant to the Lockyer-Isenberg Trial Court Funding Act of 1997 and Article 3 (commencing with Section 77200) of Chapter 13, the County of Orange has no obligation for the salary and benefits of commissioners referees, officers, assistants, and other employees of the superior court appointed pursuant to this section. Funding for trial court operations shall be solely the responsibility of the state.~~

~~All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion, or in the discretion of the Superior Court Chief Executive Officer when so delegated.~~

~~The superior court may establish any additional positions, titles, and pay rates as are required, and may appoint and employ any additional commissioners, referees, officers, assistants, and other employees it deems necessary for the performance of the duties and~~

~~exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees authorized by this section, except those of court commissioners and juvenile court referees, may be adjusted by a majority of the judges of the court, the Superior Court Executive Committee, or the Superior Court Chief Executive Officer when so delegated.~~

~~All court personnel shall be entitled to any step advancement, vacation, sick leave, holiday benefits, other leaves of absence, lump-sum payments for sick leave and vacation when separated from the service, inclusion in the retirement system of the County of Orange and other benefits as may be adopted in a memorandum of understanding with a recognized employee organization or as may be directed by rules adopted by a majority of the judges.~~

~~Superior court commissioners and juvenile court referees shall be entitled to any benefits as may be directed by rules adopted by the majority of the judges.~~

~~Where statutes require implementation by local ordinances for the extension of benefits to local officers and employees, these benefits may be made applicable, by rule, to those employees.~~

~~Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of personnel. When the rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.~~

~~When requested to do so by the court, the county shall furnish to the superior court any services as may be required in connection with the recruitment and employment of personnel.~~

~~All those personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office.~~

~~This section is not intended to alter the existing employment status of, or meet and confer obligations related to, superior court staff or to require changes in local employment practices.~~

Comment. Section 69899.5 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

(2) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations); Cal. R. Ct. 810 (court operations).

Gov't Code § 69900 (repealed). Court personnel in City and County of San Francisco

SEC. ___. Section 69900 of the Government Code is repealed.

~~69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose annual salaries shall be as set forth hereafter. The class numbers set forth refer to the superior court position classifications contained in the salary ordinance of the City and County of San Francisco.~~

	Title	Class Number
1	Executive Officer	0555
1	Assistant County Clerk	0583

~~1~~	~~Assistant Executive Officer~~	~~0584~~
~~1~~	~~Manager of Budget and Admin.~~	~~0585~~
~~20~~	~~Court Coordinators~~	~~0588~~
~~4~~	~~Court Assistants~~	~~0589~~
~~4~~	~~Court Assistants, Senior~~	~~0590~~
~~65~~	~~Superior Court Clerks~~	~~0591~~
~~1~~	~~Payroll/Personnel Director~~	~~0592~~
~~1~~	~~Deputy Jury Commissioner~~	~~0622~~
~~3~~	~~Managers of Court Operations~~	~~0634~~
~~6~~	~~Division Chiefs~~	~~0636~~
~~1~~	~~Director-Family Court Services~~	~~0640~~
~~1~~	~~Assistant Director-Family Court Services~~	~~0641~~
~~1~~	~~Assistant Director-Probate~~	~~0646~~
~~1~~	~~Director, Probate~~	~~0647~~
~~4~~	~~Court Investigators~~	~~0648~~
~~3~~	~~Probate Examiners~~	~~0649~~
~~1~~	~~Traffic Hearing Officer~~	~~0650~~
~~5~~	~~Counselors-Family Court Services~~	~~0655~~
~~1~~	~~Mental Health Coordinator~~	~~0657~~
~~10~~	~~Legal Research Assistants~~	~~0676~~
~~1~~	~~Judicial Secretary Coordinator~~	~~0677~~
~~2~~	~~Executive Secretaries~~	~~0678~~
~~6~~	~~Judicial Secretaries~~	~~0680~~
~~23~~	~~Judicial Clerks, Senior~~	~~0681~~
~~40~~	~~Judicial Clerks~~	~~0697~~
~~1~~	~~Judicial Clerk II~~	~~0705~~
~~29~~	~~Court Reporters~~	~~0710~~
~~1~~	~~Legal Research Assistant-Presiding Judge~~	~~0735~~
~~1~~	~~MIS Specialist II~~	~~0818~~
~~4~~	~~MIS Specialists III~~	~~0819~~
~~1~~	~~Superior Court Computer Coordinator~~	~~0821~~
~~5~~	~~Attorneys, Civil and Criminal~~	~~0174~~
~~1~~	~~Juvenile Justice Director~~	~~0637~~

~~Those positions shall be paid biweekly the equivalent amount as specified in the salary ordinance. All salaries for original appointments shall be at step 1, provided that on the first anniversary of appointment the employee shall advance to the second step, and thereafter on the second anniversary of appointment the employee shall advance to step 3, and thereafter on the third anniversary of appointment the employee shall advance to step 4, and thereafter shall be paid at the rate established by step 4.~~

~~Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1991-92 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attache is paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attache is to be paid.~~

~~Employment by the court shall be deemed to be employment by the city and county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the city and county for miscellaneous employees.~~

~~With the approval of the board of supervisors, the court may establish such additional titles and pay rates as are required and, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members.~~

~~Rates of compensation of all officers and assistants and other employees may be altered by joint action and approval of the board of supervisors and a majority of the judges of the court. The salaries of the employees of the superior court shall be paid by the city and county.~~

Comment. Section 69900 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71625 (accrued leave benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code § 69901 (repealed). Expense allowances

SEC. ___. Section 69901 of the Government Code is repealed.

~~69901. All of the employees provided for in Section 69900 shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their office.~~

~~The salaries provided for in the said section shall be paid in monthly installments out of the salary fund of the county, or, if there is none, out of such fund as other salary demands against the county are paid. The expenses provided for in this section shall be paid in monthly installments out of the general fund. Salaries and expenses shall be allowed and audited in the same manner as the law requires for other demands against the county.~~

Comment. Section 69901 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71623 (salaries), 71673 (authority of court).

(2) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code § 69903.3 (repealed). Extra compensation for administrative assistant and chief calendar deputy in Alameda County

SEC. ___. Section 69903.3 of the Government Code is repealed.

~~69903.3. Notwithstanding any other provisions of this article, in any county with a population of less than 1,000,000 but more than 800,000 as determined by the 1960 federal census, and if the superior court does not have a position of assistant jury commissioner, the positions of administrative assistant and chief calendar deputy in Section 69903 shall be compensated at a rate of 10 percent more than the salary to which they would be entitled otherwise.~~

Comment. Section 69903.3 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries).

Gov't Code § 69904 (repealed). Court personnel in San Diego County

SEC. ___. Section 69904 of the Government Code is repealed.

~~69904. (a) In a county of the third class, as determined by the 1970 federal census, a majority of the judges of the superior court may establish additional titles and pay rates as are required and may appoint and employ those commissioners, officers, assistants, and other employees as are deemed necessary for the performance of the duties and exercise of the power conferred by law upon the court and its members. Titles and rates of compensation of all the commissioners, officers, assistants, and other employees may be adjusted from time to time by a majority of the judges of the court.~~

~~(b) All personnel appointed by the judges pursuant to this or any other section shall be exempt from civil service and shall be attaches of the court. They shall serve at the pleasure of a majority of the judges of the court and may at any time be removed by the majority of the judges in their discretion. In addition to the benefits authorized under Article 1 (commencing with Section 53200) of Chapter 2 of Title 5 and Sections 69902 and 69902.5 and in accordance with personnel regulations adopted by a majority of the judges, those personnel shall be entitled to step advancement, vacation, sick leave, holiday benefits, other leaves of absence, and other benefits, including participation in the county's tuition refund and suggestion award programs, at levels no less than those authorized for employees in the classified service of the county. In the event the regulations allow credit for sick leave benefits or other benefits accumulated by the appointee while employed in county civil service, no credit shall be allowed if the appointee elected to receive any payment, including any partial payment, for any of those benefits upon separation from county civil service. Any person terminating employment with county civil service and immediately accepting appointment with the court may, if provided by the rules of the Civil Service Commission, return to civil service within two years of that appointment, provided the return shall not entitle that employee to any additional rights by reason of his or her employment with the court, other than those to which he or she would have been entitled if he or she had remained in county civil service during the period of employment with the court.~~

~~(c) Juvenile court referees in their first year of service shall receive a salary equal to 75 percent of the salary of a judge of the superior court, and in their second year of service they shall receive a salary equal to 80 percent of the salary of a judge of the superior court; thereafter they shall receive a salary equal to 85 percent of the salary of a judge of the superior court. Each juvenile court referee who has served as a referee prior to the effective date of this act shall be entitled to credit for the time of service in the computation of his or her salary as prescribed in this section. Nothing in this section shall operate to reduce the compensation which the referee was entitled on the day prior to the effective date of this section.~~

~~(d) With the approval of the judges of the court, each juvenile court referee and each legal research assistant appointed pursuant to law, may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.~~

Comment. Section 69904 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system).

Gov't Code § 69906 (repealed). Court personnel in San Bernardino County

SEC. ___. Section 69906 of the Government Code is repealed.

~~69906. In any county with a population of less than 715,674 but more than 631,498, as determined by the 1970 federal census, a majority of the judges of the superior court may appoint officers or employees as expressly authorized by law and, with the approval of the board of supervisors, may establish additional titles and may appoint additional commissioners, officers, assistants, and other employees as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. At the request of the judges or the superior court executive officer, county personnel services shall assist in the recruitment and examination of court personnel, but the personnel shall be court rather than county personnel and shall serve at and may be terminated at the pleasure of a majority of the judges. Other provisions of county civil service or personnel rules or procedures shall not be applicable to court employees unless made applicable by local court rule. Except as otherwise expressly provided by statute, salaries of all court personnel shall be fixed and adjusted by mutual agreement of a majority of the judges and the board of supervisors; provided, that the salary of any court investigator appointed by the court pursuant to Section 1454 of the Probate Code shall be fixed by a majority of the judges of the court. Benefits other than salary shall, for all court personnel, be the same as are now or may hereafter be provided to comparable county classifications, as comparability is determined by agreement of the majority of judges and the board of supervisors, but shall not exceed those provided for the comparable county classifications, except that vacation benefits for commissioner and referee classifications shall be the same as are provided for judges pursuant to subdivision (7) of Section 205 of the California Rules of Court. However, the increased cost of vacation benefits for commissioners and referees shall not be considered in determining the cost of court operations pursuant to Sections 77003 and 77204.~~

~~To the extent necessary, and for the sole purpose of implementing the intent of this section, court employees shall be deemed county employees for inclusion in those benefit programs provided county employees as a group or groups. All court employees except pro tempore court reporters shall, if otherwise eligible under statutory and retirement association membership requirements, be included in the county's retirement system.~~

Comment. Section 69906 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(2) Enactment of the Trial Court Funding Act. See Section 77003, Cal. R. Ct. 810 ("court operations" defined).

Gov't Code § 69908 (repealed). Court personnel in Madera County

SEC. ___. Section 69908 of the Government Code is repealed.

~~69908. Notwithstanding any other provision of law, in Madera County, a majority of the judges of the superior court may appoint such officers or employees as are expressly authorized by law and, with the approval of the board of supervisors, may establish such additional titles and may appoint such additional commissioners, officers, assistants, and other employees as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. At the request of the judges~~

~~or the superior court executive officer, the county personnel department shall assist in the recruitment and examination of court personnel. Personnel hired or appointed as official reporters, official interpreters, research attorneys, or in other nonclerical positions shall serve at and may be terminated at the pleasure of a majority of the judges. Other provisions of county civil service or personnel rules or procedures shall not be applicable to those court employees unless made applicable by local court rule. Except as otherwise expressly provided by statute, salaries of all court personnel shall be fixed and adjusted by mutual agreement of a majority of the judges and the board of supervisors. Benefits other than salary shall, for all court personnel, be the same as are now or may hereafter be provided to equivalent county classifications, as that equivalency is determined by agreement of the majority of judges and the board of supervisors, but shall not exceed those provided for the equivalent county classifications. To the extent necessary, and for the sole purpose of implementing the intent of this section, court employees shall be deemed county employees for inclusion in those benefit programs provided county employees as a group or groups. All court employees except pro tempore court reporters shall, if otherwise eligible under statutory and retirement system membership requirements, be included in the county's retirement system.~~

Comment. Section 69908 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

Gov't Code § 69911 (repealed). Court personnel in Kern County

SEC. ___. Section 69911 of the Government Code is repealed.

~~69911. In the County of Kern, a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:~~

~~Number~~	~~Title~~	~~Range~~
~~1~~	~~Superior Court ExecutiveOfficer/Jury Commissioner~~	~~64.7~~
~~3~~	~~Principal Attorney~~	~~62.4 or,~~
	~~Senior Attorney OR~~	~~59.6 or,~~
	~~Associate Attorney OR~~	~~56.7 or,~~
	~~Deputy Attorney OR~~	~~53.9~~
~~1~~	~~Court Commissioner~~	~~75-85% of a Superior Court judge's annual salary~~
~~1~~	~~Senior Juvenile Court Referee~~	~~75-85% of a Superior Court judge's annual salary~~
~~1~~	~~Court Services Manager~~	~~53.1~~
~~1~~	~~Superior Court Calendar Coordinator~~	~~48.3~~
~~1~~	~~Departmental Systems Coordinator II~~	~~55.2~~
~~1~~	~~Departmental Systems Coordinator I~~	~~53.2~~
~~1~~	~~Probate Examiner~~	~~48.5~~
~~13~~	~~Assistant Secretary, Superior Court~~	~~44.4~~
~~22~~	~~Court Reporter~~	~~55.8~~
~~4~~	~~Court Reporter Part-time~~	~~55.8~~
~~1~~	~~Asst. Clerk of the Court~~	~~61.1~~
~~1~~	~~Dept. Systems Coord. I~~	~~52.8~~
~~1~~	~~Data Entry OP II OR~~	~~39.8~~

	~~Data Entry OP I~~	~~37.8~~
~~1~~	~~Court Financial Technician~~	~~47.9~~
~~1~~	~~Account Clerk IV~~	~~44.4~~
~~2~~	~~Account Clerk II OR~~	~~39.3~~
	~~Account Clerk I~~	~~36.5~~
~~1~~	~~Records Clerk~~	~~41.6~~
~~2~~	~~Microphotographer~~	~~40.7~~
~~2~~	~~Asst. Chief Deputy Clerk~~	~~53.0~~
~~1~~	~~CJIS Coord.~~	~~49.6~~
~~4~~	~~Supv. Superior Court Clerk~~	~~51.0~~
~~24~~	~~Superior Court Clerk II OR~~	~~47.8~~
	~~Superior Court Clerk I~~	~~44.2~~
~~10~~	~~Deputy Clerk III~~	~~46.2~~
~~32~~	~~Deputy Clerk II OR~~	~~44.1~~
	~~Deputy Clerk I~~	~~41.8~~
~~4~~	~~Typist Clerk II OR~~	~~38.1~~
	~~Typist Clerk I~~	~~35.3~~
~~1~~	~~Clerk III~~	~~40.7~~
~~2~~	~~Clerk II OR~~	~~38.0~~
	~~Clerk I~~	~~35.2~~
~~1~~	~~Senior Secretary~~	~~44.9~~
~~1~~	~~Secretary~~	~~43.0~~

~~The salary range set forth above is provided for in the salary schedule of the Kern County salary ordinance.~~

~~All personnel appointed pursuant to this section shall be noncivil service and shall serve at the pleasure of the majority of the judges. With the approval of the board of supervisors, the majority of the judges may establish any additional positions as are required, and, with the approval of the board of supervisors, may appoint and employ additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all positions assigned to the superior court may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court. Any additional appointments or changes in compensation made pursuant to this section shall be on an interim basis and shall expire on the effective date of appropriate ratifying or modifying state legislation.~~

~~All personnel appointed pursuant to this section shall be entitled to the same employee benefits, with the exception of court holidays, that are provided to all other county employees by the board of supervisors.~~

Comment. Section 69911 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters); Code Civ. Proc. § 195 (jury commissioner).

Gov't Code § 69912 (repealed). Deputy court clerk in San Luis Obispo County

SEC. ___. Section 69912 of the Government Code is repealed.

~~69912. In the County of San Luis Obispo, upon authorization of a majority of the judges, the executive officer shall appoint a deputy clerk of the court or an assistant executive officer who shall assist in the performance of the duties of Sections 69893 and 69898.~~

~~The deputy clerk of court or assistant executive officer classification shall hold office at the pleasure of the court. The court shall fix the qualifications of the position. The position shall be exempt from civil service laws.~~

~~The salary of the position shall be established and adjusted by mutual agreement of a majority of judges and the board of supervisors.~~

~~Benefits other than salary shall be the same as are now provided or may hereafter be provided to equivalent county classifications. The position shall be included in the county retirement system.~~

Comment. Section 69912 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Section 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court).

Gov't Code § 69915 (repealed). Consolidation of court-related services

SEC. ___. Section 69915 of the Government Code is repealed.

~~69915. (a) Notwithstanding any other provision of law, and except as provided in subdivision (j), the Board of Supervisors of each of the Counties of Merced, Orange, and Shasta may commence public hearings regarding the abolition of the marshal's office and the transferring of court-related services provided by the marshal within the county to the sheriff's department. Within 30 days of the commencement of public hearings as authorized by this section, the board shall make a final determination as to the most cost-effective and most efficient manner of providing court-related services.~~

~~(b) Concurrently, an election may be conducted among all of the judges of the consolidated courts of the county to provide an advisory recommendation to the board of supervisors on the abolition of the marshal's office and the transferring of court-related services provided by the marshal within the county to the sheriff's department. The outcome shall be determined by a simple majority of votes cast. The vote of the judges shall then be forwarded to the board of supervisors prior to the close of the public hearing, and the board of supervisors shall take into advisement the recommendation of the judges provided by the election report.~~

~~(c) The determination of the abolishment of the marshal's office or the transferring of the duties of the marshal shall occur pursuant to the board's determination, and shall be concluded no later than July 1, 2000.~~

~~(d) The courtroom assignment of bailiffs after abolition of the marshal's office and the consolidation pursuant to this section shall be determined by a two-member committee comprised of the presiding judge of the consolidated court and the sheriff, or their designees. Any new bailiff assignments shall be made only after consultation with the affected judge or commissioner in whose courtroom a new assignment is planned.~~

~~It is the intent of the Legislature, in enacting this subdivision, to ensure that courtroom assignments are made in a manner that best ensures that the interests of the affected judge or commissioner and bailiff are protected.~~

~~(e) Notwithstanding any other provision of law, the marshal and all personnel of the marshal's office affected by the abolition of the marshal's office in the county shall~~

~~become employees of the sheriff's department at their existing or equivalent classification, salaries, and benefits, and, except as may be necessary for the operation of the agency under which court-related services and the service of civil and criminal process are consolidated, they shall not be involuntarily transferred out of the consolidated office for a period of five years following the consolidation.~~

~~(f) Personnel of the abolished marshal's office shall be entitled to request an assignment to another division within the sheriff's department, and that request shall be reviewed the same as any other request from within the department. Persons who accept a voluntary transfer from the court services/civil division shall waive their rights pursuant to subdivision (e).~~

~~(g) Permanent employees of the marshal's office on the effective date of the abolition of the marshal's office pursuant to this section shall be deemed to be qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office on the effective date of a consolidation pursuant to this section shall retain their probationary status and rights and shall not be deemed to have transferred so as to require serving a new probationary period.~~

~~(h) All county service or service by employees of the marshal's office on the effective date of a consolidation pursuant to this section shall be counted toward seniority in the consolidated office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.~~

~~(i) No employee of the marshal's office on the effective date of a consolidation pursuant to this section shall lose peace officer status, or otherwise be adversely affected as a result of the abolition and merger of personnel into the sheriff's department.~~

~~(j) Subdivisions (d) to (i), inclusive, shall not apply to the County of Orange. Prior to a determination by the Orange County Board of Supervisors to abolish the marshal's office and to transfer duties of the marshal to the sheriff, the board of supervisors shall do both of the following:~~

~~(1) Meet and confer with affected employee bargaining representatives with respect to matters within the scope of representation that would be affected by a determination to abolish the marshal's office and to transfer duties of the marshal to the sheriff. These matters shall include, but not be limited to, seniority within the merged departments, job qualifications, classification of positions, and intradepartmental transfers. For purposes of carrying out this paragraph, employees of the superior court whose job classification confers safety status shall have the right to representation in accordance with the local employer-employee resolution and to bargain in accordance with Sections 3504, 3505, and 3505.1. The board of supervisors is not authorized to abolish the office of the marshal and to transfer duties of the marshal to the sheriff unless a mutual agreement, or mutually agreed to amendment to an existing memorandum of understanding as authorized by this section, is reached with each affected recognized employee organization pursuant to Section 3505.1 and adopted by the board of supervisors.~~

~~(2) Confer with the presiding judge of the superior court or his or her designated representative and the sheriff to discuss courthouse security and to establish a mechanism for the assignment of courtroom security personnel. Any agreement made in accordance with this paragraph that commits the superior court to fund services shall be approved by the presiding judge of the superior court or his or her designee. Any agreement entered into pursuant to this paragraph shall become effective only upon a majority vote of the board of supervisors to abolish the office of the marshal or to transfer duties of the marshal to the sheriff.~~

~~(k) Upon a determination by the Orange County Board of Supervisors to abolish the office of marshal and to transfer duties of the marshal to the sheriff, Article 17.1 (commencing with Section 74010) of Chapter 10 shall become inoperative~~.

Comment. Section 69915 is repealed to reflect:

(1) Abolition of the marshal's office and the transfer of court-related services provided by the marshal within Orange County to the sheriff's department, effective July 1, 2000.

(2) Consolidation of court-related services in Merced and Shasta Counties within their respective marshal offices. See former Section 26603.1 (Merced County) and Section 72116 (Shasta County).

Gov't Code § 69916 (added). Marshal of Merced County Superior Court

SEC. ___. Section 69916 is added to the Government Code, to read:

69916. There shall be one marshal of the Merced County Superior Court. When a vacancy occurs in the office, a majority of the superior court judges shall appoint the marshal and the marshal shall serve at their pleasure.

Comment. The first sentence of Section 69916 continues the first sentence of the first paragraph of former Section 73796, replacing a reference to the municipal court with a reference to the superior court.

The second sentence continues the second paragraph of former Section 73796, omitting a reference to the municipal court as obsolete.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 73796 that are not continued, see the Comment to former Article 12.5 (commencing with former Section 73790).

Gov't Code § 69917 (added). Practice of law by subordinate judicial officers

SEC. ___. Section 69917 is added to the Government Code, to read:

69917. A subordinate judicial officer may not engage in the private practice of law except to the extent permitted by Judicial Council rules. As used in this section, "subordinate judicial officer" means an officer appointed by the court to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution.

Comment. Section 69917 continues and generalizes provisions that formerly governed the private practice of law by commissioners and referees of the superior and municipal courts. See, e.g., former Sections 70141.1 (superior court commissioner in El Dorado County), 70142 (superior court commissioners), 72190 (municipal court commissioners), 72450 (municipal court traffic trial commissioners), 74925 (municipal court commissioner in Tulare County). See also Cal. Code Jud. Ethics, Canons 4G (practice of law), 6 (compliance with Code). It makes clear that the prohibition on the practice of law applies only to subordinate judicial officers appointed pursuant to Article VI, Section 22 of the California Constitution.

Section 69917 authorizes the Judicial Council to establish exceptions to the general statutory prohibition to allow subordinate judicial officers, or classes of subordinate judicial officers, to engage in the private practice of law. For example, special provisions formerly permitted certain types or classes of municipal court commissioners and referees to engage in the private practice of law before any court except the court in which they served. See, e.g., former Sections 74703(e) (temporary municipal court traffic referees in Sonoma County), 74982(d) (part-time municipal court commissioners in Shasta County).

Gov't Code § 69941 (amended). Appointment of official reporters

SEC. ___. Section 69941 of the Government Code is amended to read:

69941. ~~The judge or judges of any~~ A superior court may appoint a as many competent phonographic ~~reporter, or as many such~~ reporters ~~as there are judges~~, to be known as

official ~~reporter or~~ reporters of such court, and such ~~pro tempore~~ official reporters ~~as the convenience of the court may require. The reporters shall hold office during the pleasure of the appointing judge or judges.~~ pro tempore, as are deemed necessary for the performance of the duties and the exercise of the powers conferred by law upon the court and its members.

Comment. Section 69941 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See former Section 72194 (municipal court reporters).

The first sentence is amended to incorporate the general appointment standard of the Trial Court Employment Protection and Governance Act. See, e.g., Section 71620 (trial court personnel).

The last sentence of Section 69941 is deleted as obsolete. Official reporters and official reporters pro tempore who are court employees are subject to the provisions of the Trial Court Employment Protection and Governance Act. See, e.g., Sections 71620 (trial court personnel), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). The employment status of official reporters and official reporters pro tempore who are not court employees (including temporary employees hired through agencies and individuals hired by the trial court pursuant to an independent contractor agreement) is subject to the terms of their appointment.

The section is also amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13 (plural includes singular).

Gov't Code § 69942 (amended). Qualifications of official reporter

SEC. ___. Section 69942 of the Government Code is amended to read:

69942. No person shall be appointed to the position of official reporter of any court unless ~~there is satisfactory evidence of his or her good moral character, and unless he or she has been first examined as to his or her competency by at least three members of the bar practicing in the court and designated by the judge or judges of the court, or~~ the person has first obtained a license to practice as a certified shorthand reporter from the Court Reporters Board of California.

Comment. Section 69942 is amended to delete provisions superseded by Business and Professions Code Sections 8016 (certificate required) and 8020 (qualifications for certification).

Gov't Code § 69944 (amended). Completion and filing of transcriptions of notes

SEC. ___. Section 69944 of the Government Code is amended to read:

69944. Until an official reporter of any court or official reporter pro tempore has fully completed and filed all transcriptions of ~~his~~ the reporter's notes in any case on appeal which ~~he~~ the reporter is required by law to transcribe, ~~he~~ the reporter is not competent to act as official reporter in any court. Violation of subdivision ~~(d)~~ (e) of Section 8025 of the Business and Professions Code shall also render an official reporter or official reporter pro tempore incompetent to act as official reporter in any court.

Comment. Section 69944 is amended to correct the reference to former subdivision (d) of Business and Professions Code Section 8025.

Gov't Code § 69945 (repealed). Excuse of official reporter

SEC. ___. Section 69945 of the Government Code is repealed.

~~69945. Except when excused for good and sufficient reason by order of the court, the official reporter of any superior court shall attend to the duties of his office in person. An order for excuse shall be entered upon the minutes of the court. Employment in his professional capacity elsewhere is not a good and sufficient reason for such excuse. When the official reporter of any court has been excused pursuant to this section, the court may appoint an official reporter pro tempore, who shall perform the same duties and receive the same compensation during the term of his employment as the official reporter.~~

Comment. Section 69945 is superseded by Section 69941 (appointment of official reporters).

Gov't Code § 69952 (amended). Payment from Trial Court Operations Fund

SEC. ___. Section 69952 of the Government Code is amended to read:

69952. (a) The court may specifically direct the making of a verbatim record and payment therefor shall be from the ~~county treasury~~ Trial Court Operations Fund on order of the court in the following cases:

(1) Criminal matters.

(2) Juvenile proceedings.

(3) Proceedings to declare a minor free from custody.

(4) Proceedings under the Lanterman-Petris-Short Act~~,~~ (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

(5) As otherwise provided by law.

(b) Except as otherwise authorized by law, the court shall not order to be transcribed and paid for out of the ~~county treasury~~ Trial Court Operations Fund any matter or material except that reported by the reporter pursuant to Section 269 of the Code of Civil Procedure. When there is no official reporter in attendance and ~~a~~ an official reporter pro tempore is appointed, his or her reasonable expenses for traveling and detention shall be fixed and allowed by the court and paid in like manner. When the court orders a daily transcript, necessitating the services of two phonographic reporters, the reporting fee for each of the reporters and the transcript fee shall be proper charges against the ~~county treasury~~ Trial Court Operations Fund, and the daily transcript shall be pursuant to Section 269 of the Code of Civil Procedure. When the daily transcript is prepared by a single reporter, an additional fee for technological services, as set by the court with the agreement of the reporter, may be imposed. However, the total of the fee for a single reporter and the fee for technological services shall be less than the total fee for two reporters.

Comment. Section 69952 is amended to reflect enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 68073 (responsibility for court operations and facilities).

The section is also amended for consistency of terminology. See Section 69941 (appointment of official reporters).

Gov't Code § 69955 (amended). Reporting notes

SEC. ___. Section 69955 of the Government Code is amended to read:

69955. (a) As used in this section, "reporting notes" are the reporting notes of all court reporters employed to report in the courts of California, who may be known as official ~~and pro tempore court~~ reporters and official reporters pro tempore. Reporting notes are official records of the court. Reporting notes shall be kept by the reporter taking the notes in a place designated by the court, or, upon order of the court, delivered to the clerk of the court.

(b) The reporting notes may be kept in any form of communication or representation including paper, electronic, or magnetic media or other technology capable of reproducing for transcription the testimony of the proceedings according to standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management. Reporting notes shall be stored in an environment free from excessive moisture, temperature variation, and electromagnetic fields if stored on a medium other than paper.

(c) The reporting notes shall be labeled with the date recorded, the department number of the court, and the name of the court reporter. The reporting notes shall be indexed for convenient retrieval and access. Instructions for access to data stored on a medium other than paper shall be documented.

(d) If the reporting notes are kept in any form other than paper, one duplicate backup copy of the notes shall be stored in a manner and place that reasonably assures its preservation.

(e) Reporting notes produced under subdivision (b) may be destroyed upon the order of the court after 10 years from the taking of the notes in criminal proceedings and after five years from the taking of the notes in all other proceedings, unless the notes report proceedings in capital felony cases including the preliminary hearing. No reporting notes in a capital felony case proceeding shall be destroyed until such time as the Supreme Court on request by the court clerk authorizes the destruction.

(f) A periodic review of the media on which the reporting notes are stored shall be conducted to assure that a storage medium is not obsolete and that current technology is capable of accessing and reproducing the records for the required retention period.

(g) If the reporting notes of an official ~~or pro tempore court~~ reporter <u>or official reporter pro tempore</u> have not been delivered to the clerk of the court, the notes shall be delivered by the reporter to the clerk of the court upon the reporter's retirement, resignation, dismissal, termination of appointment, or in the case of any other absence for a period of more than 30 days or longer as designated by the court. Upon the order of the court, the notes shall be returned to the reporter upon the reporter's return from such absence. In the event of the reporter's death, the notes shall be delivered to the clerk of the court by the reporter's personal representative.

(h) If reporting notes delivered to the clerk of the court are to be transcribed, the court reporter who took the notes shall be given the first opportunity to make the transcription, unless the reporter cannot be located, refuses to transcribe the notes, or is found to be incompetent to transcribe the notes.

(i) A court reporter shall be reimbursed for the actual cost of the medium on which the reporting notes are kept, whether on paper, diskette, or other media in compliance with this section.

Comment. Subdivisions (a) and (g) of Section 69955 are amended for consistency of terminology. See Section 69941 (appointment of official reporters).

Gov't Code § 69957 (repealed). Assignment to municipal court

SEC. ___. Section 69957 of the Government Code is repealed.

~~69957. Whenever the services of an official reporter of the superior court are not required in the actual prosecution of the business of the court within the purview of the duties of such reporter as an official reporter of the superior court, the presiding judge of the superior court may, if so requested by the presiding judge of any municipal court judge within the county, assign any such official reporter of the superior court to act pro tempore as an official reporter of the municipal court within the same county. Any such~~

~~assignment shall be subject to the provisions of Article 5 (commencing with Section 72190) of Chapter 8 of Title 8 of this code.~~

Comment. Section 69957 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 69957 (added). Use of electronic equipment

SEC. ___. Section 69957 is added to the Government Code, to read:

69957. Whenever an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use.

Comment. Section 69957 continues the substance of former Section 72194.5, with revisions to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Consistency of terminology. See, e.g., Section 69941 (appointment of official reporters).

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code § 69958 (repealed). Assignment to municipal court within discretion of presiding judge

SEC. ___. Section 69958 of the Government Code is repealed.

~~69958. The assignment of any official reporter of the superior court to act pro tempore as an official reporter of the municipal court shall rest within the sound discretion of the presiding judge of the superior court.~~

Comment. Section 69958 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 69959 (repealed). Termination of assignment to municipal court

SEC. ___. Section 69959 of the Government Code is repealed.

~~69959. Whenever an official reporter of the superior court has been assigned to the municipal court and is serving therein as a pro tempore reporter, the presiding judge of the superior court shall terminate such assignment and recall to the superior court any reporter of the superior court whose services are then required in the prosecution of the business of the superior court; provided, however, that no such termination shall be effected until after the conclusion of the services of the reporter in the municipal court in any particular trial or hearing theretofore commenced therein and to which the reporter has been assigned, except upon the mutual consent of the district attorney and the attorney for the defendant.~~

Comment. Section 69959 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code §§ 70140-70148 (repealed). Court commissioners

SEC. ___. Article 13 (commencing with Section 70140) of Chapter 5 of Title 8 of the Government Code is repealed.

Comment. Sections 70140-70148 are repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71612 (existing terms of employment not affected), 71615(c)(1) (preservation of employees' job classifications), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71626 (retiree group insurance benefits), 71626.5 (county retiree group insurance benefits), 71629 (trial court employment benefits not affected), 71643 (excluded positions), 71673 (authority of court). See also Section 69917 (practice of law by subordinate judicial officers); Fam. Code §§ 4250-4253 (child support commissioners).

(3) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(4) Enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court operations).

Gov't Code § 70141.11 (added). Court commissioners

SEC. ___. Article 13 (commencing with Section 70141.11) is added to Chapter 5 of Title 8 of the Government Code, to read:

Article 13. Court Commissioners

§ 70141.11. Court commissioners

70141.11. Notwithstanding Section 269 of the Code of Civil Procedure, any court reporting functions for the commissioner in Contra Costa County may be by electronic or mechanical means and devices.

Comment. Section 70141.11 continues the last sentence of former Section 70141.11 (1995 Cal. Stat. ch. 91, § 59), with nonsubstantive revisions to clarify its interrelationship with Code of Civil Procedure Section 269.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 70141.11 that are not continued, see the Comment to former Article 13 (commencing with former Section 70140).

Gov't Code § 70214.5 (repealed). Conversion of Contra Costa County referees to commissioners

SEC. ___. Section 70214.5 of the Government Code is repealed.

~~70214.5. Subject to certification by the court to the Administrative Office of the Courts that the court is able to absorb the differential salary costs within the court's existing budget, the Contra Costa County Superior Court may convert and reclassify four existing referee positions to four additional court commissioner positions.~~

Comment. Section 70214.5 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71622 (subordinate judicial officers).

Gov't Code § 70214.6 (repealed). Conversion of Santa Barbara County traffic referee to commissioner

SEC. ___. Section 70214.6 of the Government Code is repealed.

~~70214.6. Subject to certification by the court to the Administrative Office of the Courts that the court is able to absorb the differential salary cost within the court's existing budget, the Santa Barbara County Superior Court may convert and reclassify one existing traffic referee position to one additional court commissioner position.~~

Comment. Section 70214.6 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71622 (subordinate judicial officers).

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

SEC. ___. Section 70219 is added to the Government Code, to read:

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

Comment. Section 70219 continues former Section 70219 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 71001-71009 (repealed). General provisions

SEC. ___. Article 1 (commencing with Section 71001) of Chapter 6 of Title 8 of the Government Code is repealed.

Comment. Sections 71001-71009 are repealed to:

(1) Reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* former Section 71264 (municipal court served by marshal).

(2) Reflect elimination of the justice court pursuant to Article VI, Sections 1 and 5(b), of the California Constitution.

(3) Eliminate redundant and obsolete material. See former Sections 71006, 71009.

Gov't Code § 71002 (added). General provisions

SEC. ___. Article 1 (commencing with Section 71002) is added to Chapter 6 of Title 8 of the Government Code, to read:

Article 1. General Provisions

§ 71002. Municipal court facilities

71002. The board of supervisors shall provide suitable quarters for the municipal courts, including heating, lighting, and janitorial services, and shall supply them with furniture, books, and supplies necessary for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate records of the court or a division of the court when sessions are held at more than one place.

Comment. Section 71002 continues former Section 71002 without change.

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 71040-71046 (repealed). Creation of judicial districts

SEC. ___. Article 2 (commencing with Section 71040) of Chapter 6 of Title 8 of the Government Code is repealed.

Comment. Sections 71040-71046 are repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Sections 71042.5 (preservation of judicial districts for purpose of publication), 71042.6 (map to establish district boundaries), 71043 (determination of population of judicial district), former Section 71264 (municipal court served by marshal).

Gov't Code §§ 71042.5-71043 (added). Preservation of judicial districts

SEC. ___. Article 2 (commencing with Section 71042.5) is added to Chapter 6 of Title 8 of the Government Code, to read:

Article 2. Preservation of Judicial Districts

§ 71042.5. Preservation of judicial districts for purpose of publication

71042.5. Notwithstanding any other provision of law, where judicial districts in a county have been consolidated, or where the municipal and superior courts in a county have unified, the territory embraced within the respective prior component judicial districts shall be separate judicial districts for the purpose of publication within a judicial district.

Comment. Section 71042.5 continues former Section 71042.5 without substantive change.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71042.6. Map to establish district boundaries

71042.6. For the purpose of establishing boundaries under Section 71042.5, a map approved by the county surveyor shall be kept on file with the county recorder showing the boundaries of all consolidated or unified districts and component districts as of the date of consolidation or unification.

Such map shall be conclusively presumed to be accurate and may be used in evidence in any proceeding involving application of Section 71042.5.

Comment. Section 71042.6 continues the first and third paragraphs of former Section 71042.6 without substantive change. The second paragraph of former Section 71042.6 is deleted as obsolete.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71043. Determination of population of judicial district

71043. The determination of whether a judicial district or former judicial district has a population above or below 40,000 shall be made on the latest occurring of the following bases:

(a) As shown by the last preceding federal census of the district or of the aggregate cities and other political subdivisions situated within the district, whichever is greater.

(b) As shown by a subsequent census taken pursuant to Section 26203.

(c) As may have been found to be the fact in any proceeding for declaratory relief brought in a court having jurisdiction.

Comment. Section 71043 continues former Section 71043 without change, except revisions to extend it to a former judicial district.

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 71080-71100 (repealed). Personnel, records, and cases of superseded courts

SEC. ___. Article 3 (commencing with Section 71080) of Chapter 6 of Title 8 of the Government Code is repealed.

Comment. Sections 71080-71100 are repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf*. former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620(a) (job classifications and appointments), 71623 (salaries).

Gov't Code § 71094 (added). Court superseded by municipal court

SEC. ___. Article 3 (commencing with Section 71094) is added to Chapter 6 of Title 8 of the Government Code, to read:

Article 3. Court Superseded by Municipal Court

§ 71094. Service in court superseded by municipal court

71094. Continuous employment in a court superseded by a municipal court, or in a court previously superseded by such superseded court, of the officers and attachés of such superseded court who succeeded to positions in a municipal court pursuant to the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, shall be considered prior service within the definition of that term in any retirement or pension system that includes former municipal court officers and attachés.

Comment. Section 71094 continues former Section 71094 without substantive change.

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 71140-71145.1 (repealed). Qualifications, election, and term of office of judges and other personnel

SEC. ___. Article 4 (commencing with Section 71140) of Chapter 6 of Title 8 of the Government Code is repealed.

Comment. Sections 71140-71145.1 are repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For qualifications of judges, see Cal. Const. art. VI, § 15. For election and terms of judges, see Cal. Const. art. VI, § 16.

Gov't Code §§ 71141-71146 (added). Election and term of office of municipal court judge

SEC. ___. Article 4 (commencing with Section 71141) is added to Chapter 6 of Title 8 of the Government Code, to read:

Article 4. Election and Term of Office of Municipal Court Judge

§ 71141. Time of election of municipal court judge

71141. Judges of the municipal court shall be elected at the general state election next preceding the expiration of the term for which the incumbent has been elected.

Comment. Section 71141 continues former Section 71141 without change. For election of a municipal court judge who became a superior court judge through trial court unification, see Section 70211.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71143. Application of Elections Code provisions

71143. The provisions of the Elections Code relating to the nomination and election of judicial officers apply to the judges of municipal courts.

Comment. Section 71143 continues former Section 71143 without change. For election of a municipal court judge who became a superior court judge through trial court unification, see Section 70211.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71144. Time of qualification

71144. No judge shall be deemed to have qualified before the date fixed for the commencement of the judge's term of office.

Comment. Section 71144 continues former Section 71144 without substantive change. For election of a municipal court judge who became a superior court judge through trial court unification, see Section 70211.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71145. Term of office of municipal court judge

71145. The term of office of judges of municipal courts is six years from and including the first Monday of January after the January 1st next succeeding their election. Judges shall hold office until their successors are elected and qualify, but the office shall be deemed to be vacant upon the expiration of the fixed term for the purpose of selecting a successor.

Comment. Section 71145 continues former Section 71145 without change. For election of a municipal court judge who became a superior court judge through trial court unification, see Section 70211.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71145.1. Term of office of first judge of municipal court

71145.1. Notwithstanding any provision to the contrary, the term of any judge who was elected as one of the first judges of a municipal court with two judges established under the Municipal Court Act of 1925, and who automatically succeeded to the office of judge of the municipal court which superseded such municipal court to which such judge was elected, shall be six years from the date upon which the judges' term of office commenced unless such term expires in a year when no general state election is held, in which case, the judge shall continue to hold office until a successor is elected at the general state election next succeeding the expiration of the judge's term, and until such successor qualifies.

Comment. Section 71145.1 continues former Section 71145.1 without substantive change. For election of a municipal court judge who became a superior court judge through trial court unification, see Section 70211.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71146. Sunset date

71146. This article shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

Comment. Section 71146 is added to ensure that Sections 71141-71145.1 are repealed once they become obsolete.

Gov't Code §§ 71180-71184 (repealed). Filling of vacancies

SEC. ___. Article 5 (commencing with Section 71180) of Chapter 6 of Title 8 of the Government Code is repealed.

Comment. Sections 71180-71184 are repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For election and terms of superior court judges, see Cal. Const. art. VI, § 16. For notification of judges' retirement systems on death, removal, or resignation of a superior court judge, See Section 68504; see also Sections 75025 (notice of retirement), 75033.5 (notice and election of retirement).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620(a) (job classifications and appointments), 71623 (salaries), 71640-71645 (employment selection and advancement), 71673 (authority of court). *Cf.* Section 69916 (Merced County marshal). For provisions relating to the appointment of county employees, see Cal. Const. art. XI, §§ 1(b) and 4 (county governing board shall provide for the number, compensation, tenure, and appointment of employees), and Section 25300 (board of supervisors shall provide for the appointment of county employees). See also Sections 77212(d) (contract for county services), 77212.5 (agreement with sheriff's department regarding court security services).

Gov't Code §§ 71180-71181 (added). Filling of vacancies

SEC. ___. Article 5 (commencing with Section 71180) is added to Chapter 6 of Title 8 of the Government Code, to read:

Article 5. Filling of Vacancies

§ 71180. Vacancy in office of municipal court judge

71180. (a) Any vacancy in the office of judge of a municipal court shall be filled by appointment by the Governor, but no vacancy shall be deemed to exist in any office before the time fixed in Sections 71080, 71082, and 71083 for the selection of the judges of that court and the time fixed by law for their qualification. The appointee shall hold office for the remainder of the unexpired term of his or her predecessor and until his or her successor is elected and qualifies.

If the office to which any person so appointed was not previously occupied, he or she shall hold office until his or her successor is elected at the general state election next succeeding the occurrence of the vacancy and qualifies. No successor to the appointee shall be elected at any election held within 10 months of the date of the occurrence of the vacancy.

(b) If a vacancy in the office of judge of a municipal court occurs between the last day candidacy declaration papers may be filed and the June direct primary election and that vacancy occurs because of the appointment of the incumbent judge to another office by the Governor, or because the incumbent has resigned, retired, died, or been removed from office in accordance with subdivision (b) or (c) of Section 18 of Article VI of the California Constitution, and if one or more qualified persons other than the incumbent have filed candidacy declaration papers for the office, no vacancy shall be deemed to exist for purposes of subdivision (a), and the election for the office of judge shall be postponed until the next November statewide election.

If the Governor appoints the incumbent judge to another office within 68 days of the June direct primary election, and, as a result, the elections officer does not have sufficient time to remove the candidates' names from the ballot, the June direct primary election for

the office shall not be deemed to have been held. At the next November statewide election, the candidate who receives the most votes shall be elected.

In order for a person's name to appear on the ballot at the next November statewide election the person shall file nomination documents in accordance with Article 2 (commencing with Section 8020) of Chapter 1 of Part 1 of Division 8 of the Elections Code. No previously filed documents shall satisfy this subdivision. Qualified persons who did not file nomination documents for the June direct primary election, as well as qualified persons who filed nomination documents for the June direct primary election, shall be permitted to file nomination documents for the November statewide election.

Persons who had previously paid the filing fee at the time of filing nomination documents for the June direct primary election shall not be required to pay a filing fee for the November statewide election.

Comment. Section 71180 continues former Section 71180 without substantive change. For election of a municipal court judge who became a superior court judge through trial court unification, see Section 70211.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71181. Sunset date

71181. This article shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

Comment. Section 71181 is added to ensure that Section 71180 is repealed once it becomes obsolete.

Gov't Code §§ 71220-71221 (repealed). Salaries

SEC. ___. Article 6 (commencing with Section 71220) of Chapter 6 of Title 8 of the Government Code is repealed.

Comment. Sections 71220-71221 are repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71623 (salaries), 71673 (authority of court). For provisions relating to the compensation of superior court judges, see Cal. Const. art. III, § 4, art. VI, § 19, and Sections 68202, 68203, 77003. For provisions relating to the payment of county employee salaries from the county treasury, see Sections 28000, 28002, 28004.

(3) Enactment of the Trial Court Funding Act. See, e.g., Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations), 77212 (continuation of services by counties); Cal. R. Ct. 810 (court operations). Counties may charge superior courts for the costs of providing services as described in Sections 77003 and 77212, not to exceed the equivalent charges to county departments or special districts for similar services. See Section 77009(g).

Gov't Code §§ 71260-71280.5 (repealed). Clerk and marshal

SEC. ___. Article 7 (commencing with Section 71260) of Chapter 6 of Title 8 of the Government Code is repealed.

Comment. Sections 71260-71280.5 are repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* former Section 71264 (municipal court served by marshal). See also Sections 26603 (superior court attendance), 26608 (service of process and notices), 26665

(service of writs and process in civil actions), 69840 (powers, duties and responsibilities of clerk of court and deputy clerk of court), 69844 (minutes and other records of superior court), 69844.5 (certification and submission of superior court records relating to criminal convictions), 69844.7 (minute orders of superior court kept in chronological order), 69846.5 (endorsement of filing date on paper filed with superior court), 71265 (marshals' powers, duties, and liabilities).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620(a) (job classifications and appointments), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system). For marshals who are county employees, former Section Sections 71268 and 71269 are superseded by county ordinances or memoranda of understanding.

(3) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Los Angeles County, effective January 1, 1994.

(4) Elimination of the marshal's office as a result of consolidation with the sheriff's office in San Diego County, effective January 1, 2000.

(5) The fact that former Sections 71268 and 71269 are obsolete relics derived from former Government Code provisions relating to the succession of inferior courts by municipal and justice courts. See 1951 Cal. Stat. ch. 1296, § 5.

Gov't Code §§ 71265-71267 (added). Marshal

SEC. ___. Article 7 (commencing with Section 71265) is added to Chapter 6 of Title 8 of the Government Code, to read:

Article 7. Marshal

§ 71265. Marshals' powers, duties, and liabilities

71265. All provisions of Sections 26600 to 26604, inclusive, 26607 to 26608.1, inclusive, 26609, 26611, 26660 to 26664, inclusive, and 26680 of the Government Code, and Sections 262, 262.1, 262.2, 262.3, 262.4, and 262.5 of the Code of Civil Procedure, apply to marshals and govern their powers, duties and liabilities.

Comment. Section 71265 continues former Section 71265 with revisions to:

(1) Reflect the fact that the court services referred to in Section 26603 (superior court attendance) are provided by the marshal and not by the sheriff in some counties. See, e.g., former Section 26603.1 (Merced County) and Section 72116 (Shasta County).

(2) Delete the reference to former Section 26606. See Code Civ. Proc. §§ 488.730 (release of attachment), 699.060 (release from execution).

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71266. Fees to be collected by marshals

71266. Marshals shall charge and collect for their services the fees, expenses, and mileage allowed by law to sheriffs. They shall pay those fees into the county treasury on or before the fifth day of each month, except where those fees, expenses and mileage or a percentage of them are allowed those officers.

Comment. Section 71266 continues former Section 71266 without change.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 71267. Revolving fund for marshal

71267. The board of supervisors may establish a revolving fund for the use of the marshal who serves the superior court within the county and is a county officer, pursuant

to Sections 29320 to 29331, inclusive. The fund may only be used for services or materials that are a legal charge against the county.

Comment. Section 71267 continues former Section 71267 with revisions to:

(1) Reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Reflect enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court operations). See also Section 29320 ("officer of the county" defined).

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code § 71305 (amended). Conditions of grant of benefits

SEC. ___. Section 71305 of the Government Code is amended to read:

71305. The retirement annuity or pension provided by this article shall be granted to the marshal and constable only if in the county where the ~~municipal or justice~~ superior court is located there is provided a retirement annuity or pension for county and township peace officers who perform duties of the same character as those performed by the marshal and constable.

Comment. Section 71305 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The section is also amended to reflect elimination of the justice court pursuant to Article VI, Sections 1 and 5(b), of the California Constitution.

Gov't Code § 71380 (amended). Uniform accounting system

SEC. ___. Section 71380 of the Government Code is amended to read:

71380. The Controller shall establish, supervise, and as necessary revise a uniform accounting system, including a system of audit, to the end that all fines, penalties, forfeitures, and fees assessed by courts, and their collection and appropriate disbursement, shall be properly and uniformly accounted for. The accounting system shall apply to superior ~~and municipal~~ courts, together with probation offices, central collection bureaus and any other agencies having a role in this process.

Comment. Section 71380 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

SEC. ___. Section 71382 of the Government Code is amended to read:

71382. Every judge of a superior ~~or municipal~~ court, or the clerk of any such court, who willfully fails to keep accounts pursuant to the system or to account for the money paid into and disbursed by the court pursuant to the system established by the Controller pursuant to this article is guilty of a misdemeanor.

Comment. Section 71382 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 71384 (amended). Deposit of money collected and audit of accounts

SEC. ___. Section 71384 of the Government Code is amended to read:

71384. The system established pursuant to this article may provide for the deposit of all money collected by ~~municipal~~ superior courts in the county treasury, for disbursement from it, and for the audit of such accounts by the county auditor.

Comment. Section 71384 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 71601 (amended). Definitions

SEC. ___. Section 71601 of the Government Code is amended to read:

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

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

(b) "Employee organization" means any organization that includes trial court employees and has as one of its primary purposes representing those employees in their relations with the trial court.

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

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

(e) "Meet and confer in good faith" means that a trial court or representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for resolution are contained in this chapter or in a local rule, or when the procedures are utilized by mutual consent.

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

(g) "Promotion" means promotion within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

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

(i) "Subordinate judicial officer" means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, child support commissioner, referee, traffic trial commissioner, traffic referee, traffic hearing officer, juvenile referee, juvenile hearing officer, and temporary judge ~~pro tempore~~.

(j) "Transfer" means transfer within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) "Trial court" means a superior court ~~or a municipal court~~.

(*l*) "Trial court employee" means a person who is both of the following:

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

(2) Subject to the trial court's right to control the manner and means of his or her work because of the trial court's authority to hire, supervise, discipline, and terminate employment. For purposes of this paragraph only, the "trial court" includes the judges of a trial court or their appointees who are vested with or delegated the authority to hire, supervise, discipline, and terminate.

(m) A person is a "trial court employee" if and only if both paragraphs (1) and (2) of subdivision (*l*) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 810 of the California Rules of Court. The phrase "trial court employee" includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (*l*). The phrase "trial court employee" does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed.

Comment. Subdivision (i) of Section 71601 is amended to refer to types of subordinate judicial officers. See former Sections 72408 (traffic hearing officer in Santa Barbara County), 72450 (traffic trial commissioners); Fam. Code §§ 4250-4253 (child support commissioners); Welf. & Inst. Code § 255 (juvenile hearing officers). Subdivision (i) is also amended for consistency of terminology. See Cal. Const. art. VI, § 21 (temporary judge).

Subdivision (k) is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 71620 (amended). Trial court personnel

SEC. ___. Section 71620 of the Government Code is amended to read:

71620. (a) Each trial court may establish such job classifications and may appoint such trial court officers, <u>deputies,</u> assistants, and employees as are deemed necessary for the performance of the duties and the exercise of the powers conferred by law upon the trial court and its members.

(b) Each trial court may appoint an executive or administrative officer who shall hold office at the pleasure of the trial court and shall exercise such administrative powers and perform such other duties as may be required by the trial court. The executive or administrative officer has the authority of a clerk of the trial court. The trial court shall fix the qualifications of the executive or administrative officer and may delegate to him or her any administrative powers and duties required to be exercised by the trial court. ~~Notwithstanding any other provision of law, the trial court may, by local rule, specify which of the powers, duties, and responsibilities required or permitted to be exercised or performed by the county clerk in connection with judicial actions, proceedings, and records shall be exercised or performed by the executive or administrative officer. The county clerk shall be relieved of any obligation imposed on him or her by law with respect to these specified powers, duties, and responsibilities, to the extent the local rule imposes on the executive or administrative officer the same powers, duties, and responsibilities.~~

Comment. Subdivision (a) of Section 71620 is amended to make clear that the court (or the court's appointee) has the authority to appoint deputy court officers. It should be noted that Article 7 (commencing with Section 1190) of Chapter 1 of Division 4 of Title 1 applies to all deputy court officers.

The last two sentences of subdivision (b) are superseded by Section 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court).

Gov't Code § 71674 (amended). Law Revision Commission study

SEC. ___. Section 71674 of the Government Code is amended to read:

71674. The California Law Revision Commission shall determine whether any provisions of law are obsolete as a result of the enactment of this chapter, the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 (Chapter 850 of the Statutes of 1997), or the implementation of trial court unification, and shall recommend to the Legislature any amendments to remove those obsolete provisions. The commission shall report its recommendations to the Legislature, including any proposed statutory changes~~, on or before January 1, 2002~~.

Comment. Section 71674 is amended to delete the report deadline. This is intended to foster cleanup of obsolete statutes on a continuing basis as unresolved issues are settled after January 1, 2002.

Gov't Code §§ 72000-72006 (repealed). General provisions

SEC.__. Article 1 (commencing with Section 72000) of Chapter 8 of Title 8 of the Government Code is repealed.

Comment. Sections 72000-72006 are repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 69507 (marriage in superior court without fee); Cal. Const. art. VI, § 4 (Legislature to prescribe number of superior court judges).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71650-71658 (employment protection system), 71673 (authority of trial courts to establish terms and conditions of employment). For marshals who are county employees, former Section 72002 is superseded by county ordinances or memoranda of understanding.

(3) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

Gov't Code § 72004 (added). General provisions

SEC. ___. Article 1 (commencing with Section 72004) is added to Chapter 8 of Title 8 of the Government Code, to read:

Article 1. General Provisions

§ 72004. Fees collected

72004. Sections 24350 to 24356, inclusive, and Sections 29350 and 29351 apply to officers of superior courts and to the disposition of fees collected by those officers.

Comment. Section 72004 continues former Section 72004 with revisions to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code § 72053.5 (repealed). Expenses of attending convention, school, conference, or meeting

SEC. ___. Section 72053.5 of the Government Code is repealed.

~~72053.5. In addition to salary, a judge, commissioner, traffic referee, or clerk of the municipal court shall be allowed any registration fee or other charge necessarily incurred in connection with any convention, school, conference, or meeting at which his attendance is authorized by the board of supervisors, and he shall also be allowed his~~

~~necessary traveling expenses which shall be computed at the same rate for each mile traveled that is authorized by the board of supervisors as travel expense for officers of the county.~~

Comment. Section 72053.5 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For training of superior court personnel, see Section 68551 (judge attending institute or seminar).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71673 (authority of trial courts to establish terms and conditions of employment).

(3) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(4) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations); Cal. R. Ct. 810(d), Function 10 (training fees for court personnel).

Gov't Code § 72110 (amended). Consolidation of court-related services

SEC. ___. Section 72110 of the Government Code is amended to read:

72110. (a) Notwithstanding any other provision of law, the Board of Supervisors of Riverside County may find, after holding a public hearing on the issue, that cost savings can be realized by consolidation of court-related services provided by the sheriff and both offices of the marshal within that county. If that finding is made, there shall be conducted among all of the judges of the superior and municipal courts of that county an election to determine the agency, either the sheriff or both offices of the marshal, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast. The registrar of voters shall administer that election and tabulate the results thereof. The results of that election shall be reported within 15 days following the election period by the registrar of voters to the board of supervisors and to the judges of the superior and municipal courts of that county. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by a majority of the votes cast by the judges of the superior and municipal courts of the county in that election. If an election is not conducted within 90 days of notification of the board of supervisors' finding, or if the results of the election are evenly divided, the board of supervisors of that county shall determine under which agency, either the sheriff or both offices of the marshal, court-related services shall be consolidated, and shall proceed to implement that consolidation as if on the basis of a majority of the votes cast by the judges of the superior and municipal courts of that county.

(b) Notwithstanding any other provision of law, the marshals and all personnel of the marshals' offices or personnel of the sheriff's office affected by a consolidation of court-related services under this section ~~or Section 26668~~ shall become employees of that consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred during a period of six years following the consolidation out of that consolidated court-related services office. The elective offices of marshal for the County of Riverside shall be abolished upon a determination pursuant to the procedures required by this section ~~or Section 26668~~ that consolidated court-related services shall be provided by the sheriff.

(c) Permanent employees of the marshals' offices or sheriff's office on the effective date of a consolidation under this section ~~or Section 26668~~ shall be deemed qualified, and

no other qualifications shall be required for employment or retention. Probationary employees of the sheriff's office or the marshals' offices on the effective date of a consolidation under this section ~~or Section 26668~~ shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period. Transferring personnel may be required to take a promotional examination to promote to a higher classification but shall not be required to retest for his or her existing classification as a prerequisite to testing for a higher classification. A transferring deputy marshal requesting a transfer to another division in the sheriff's office shall not be required to take a written test as a prerequisite to making a lateral transfer.

(d) All county service or service by employees of the sheriff's office or the marshals' offices on the effective date of a consolidation under this section ~~or Section 26668~~ shall be counted toward seniority in that court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(e) No employee of the sheriff's office or the marshals' offices on the effective date of a consolidation under this section ~~or Section 26668~~ shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court services.

(f) This section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date. The repeal of this section does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Section 72110 is amended to delete references to former Section 26668.

The section is also amended to provide for its automatic repeal in fifteen years.

Gov't Code § 72111 (repealed). Expenses

SEC. ___. Section 72111 of the Government Code is repealed.

~~72111. In addition to their salaries, the marshals, assistants, and deputies of municipal courts, except custodians, shall be allowed their actual and necessary incidental expenses incurred in the actual performance of their duties, including traveling expenses. At the option of the board of supervisors, they may be furnished with automobiles at public expense or allowed traveling expenses at the rate a mile fixed by the board of supervisors for the operation of automobiles actually used in performance of their duty on public business or paid for such other method of transportation as they may adopt.~~

Comment. Section 72111 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71673 (authority of trial courts to establish terms and conditions of employment). For county employees, this section is superseded by county ordinances or memoranda of understanding.

(3) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(4) Enactment of the Trial Court Funding Act. See Section 77001 (local trial court management).

Gov't Code § 72113 (repealed). Parity with county employees

SEC. ___. Section 72113 of the Government Code is repealed.

~~72113. Wherever parity of salaries and employee benefits have been established between marshals attaches and county employees by the provisions of this code and a county adopts an educational incentive program by virtue of which employees of the~~

~~department of sheriff receive additional compensation or remuneration dependent upon the class of certificate acquired from the Commission on Peace Officer Standards and Training, a specialized certificate issued to a peace officer member of a marshal's department shall be deemed to be the equivalent of a Commission on Peace Officer Standards and Training certificate issued to peace officer members of a sheriff's department or a police department of a city.~~

~~For the purposes of this section the term "law enforcement experience," as used in the regulations and specifications adopted by the Commission on Peace Officer Standards and Training, shall be deemed to include service in a peace officer classification of a marshals department.~~

~~Whenever the requirements of the Commission on Peace Officer Standards and Training for a basic, intermediate, or advanced certificate have been fully met and this fact is certified to the county auditor by a school certified by the Commission on Peace Officer Standards and Training and the marshal, and a certificate is issued, the employee shall be entitled to any additional compensation as described above as though he held such a certificate.~~

Comment. Section 72113 is repealed as obsolete because there are no longer any statutes requiring parity of salaries and employee benefits among marshals, attachés and county employees.

Gov't Code § 72114.1 (repealed). Effect of consolidation on marshal's office personnel

SEC. ___. Section 72114.1 of the Government Code is repealed.

~~72114.1. (a) The marshal and all personnel of a marshal's office affected by a consolidation of court-related services under Section 72114 shall become members of such consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of such consolidated court-related services office.~~

~~(b) Permanent employees of a marshal's office on the effective date of a consolidation under Section 72114 shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of a marshal's office on the effective date of a consolidation under Section 72114 shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.~~

~~(c) All county service or service in a marshal's office of employees of a marshal's office on the effective date of a consolidation under Section 72114 shall be counted toward seniority in such court-related services office, and all time spent in the same, equivalent or higher classification shall be counted toward classification seniority.~~

~~(d) No employee of a marshal's office on the effective date of a consolidation under Section 72114 shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court services under this section.~~

Comment. Section 72114.1 is repealed as obsolete. Section 72114 has been repealed and is superseded by Section 72114.2.

Gov't Code § 72114.2 (amended). Consolidation of court-related services

SEC. ___. Section 72114.2 of the Government Code is amended to read:

72114.2. (a) Notwithstanding any other provision of law, on or after January 1, 2000, the San Diego County Marshal's Office shall be abolished, and there shall be a bureau in

the San Diego County Sheriff's Department under which court security services and the service of civil and criminal process are consolidated.

This bureau's primary function shall be to provide the management with direction, supervision, and personnel for court-related services that include court security, the service of civil and criminal process, public safety protection, judicial protection, standards of performance, and other matters incidental to the performance of those services.

The sheriff shall be appointing authority for all bureau personnel. The person selected by the sheriff to oversee the operation of court-related services, as described in this section, shall report directly to the sheriff.

Notwithstanding Section 77212, the operational service level for court security services shall be in accordance with agreements between the court and the County of San Diego, which shall not provide a lesser operational service level than may be required by statute.

The operational service level for the service of civil and criminal process and for administrative services shall be in accordance with agreements between the court and the County of San Diego, which shall not provide a lesser operational service level than may be required by statute.

To ensure that the costs assessed to the court for bureau services are in full conformance with the rules of court and statutes concerning trial court funding, the bureau shall be maintained as a separate organizational unit for budgeting and cost accounting purposes.

On a semiannual basis or more often as required by law, the sheriff shall provide the court with an accounting of costs for the bureau, in sufficient detail to allow for an assessment of budget performance, separately, for each function of the bureau. The county auditor and controller shall provide to the court copies of each audit report conducted on the bureau. The court is authorized to conduct, and the sheriff shall cooperate in, independent financial audits of the bureau, either by court staff or by independent auditors.

(b) Notwithstanding any other provision of law, concomitant with the abolition of the marshal's office all personnel of the marshal's office shall become employees of the sheriff's department at their existing or equivalent classification, salaries, and benefits.

The marshal and the assistant marshal, or their equivalents, may become employees of the sheriff's department.

(c) Permanent employees of the marshal's office on the effective date of transfer of services from the marshal to the sheriff pursuant to this section shall be deemed to be qualified, and no other qualifications shall be required for employment or retention. Promotions for all personnel from the marshal's office shall be made pursuant to standards set by the sheriff. Probationary employees in the marshal's office on the effective date of the abolition shall not be required to serve a new probationary period. All probationary time served as an employee of the marshal shall be credited toward probationary time required as an employee of the sheriff's department.

(d) All county service and all service with the marshal's office by employees of the marshal's office on the effective date of the abolition of the marshal's office shall be counted toward seniority in the sheriff's department. All time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(e) As a result of the abolition of the marshal's office, no employee of the marshal's office who becomes an employee of the sheriff's department pursuant to this section shall lose peace officer status or be reduced in rank or salary.

(f) Prior to the abolition of the marshal's office, the court and the County of San Diego shall enter into a contractual agreement regarding the provision of court security services to be provided by the sheriff. Thereafter, from time to time, the court and the County of San Diego may enter into agreements regarding the provision of court security services to be provided by the sheriff.

(g) After abolition of the marshal's office, a two-member committee comprised of a representative of the presiding judge of the superior court and a representative of the sheriff shall make recommendations to the sheriff regarding courtroom assignments of bailiffs. Bailiff assignments and the release from those assignments shall be made only after consultation with, and concurrence of, the affected judge or judicial officer. The presiding judge may provide the concurrence required by this section. This subdivision shall not apply to actions instituted by the sheriff for fitness for duty reasons or discipline that is subject to review by the San Diego County Civil Service Commission.

(h) For a period of five years following the abolition of the marshal's office, personnel of the marshal's office who become employees of the sheriff's department shall not be transferred from the bureau in the sheriff's department under which court-related services and the service of civil and criminal process are consolidated, unless the transfer is voluntary or is the result of fitness for duty reasons or discipline that is subject to review by the San Diego County Civil Service Commission.

(i) Personnel of the marshal's office who become employees of the sheriff's department shall be entitled to request an assignment to another bureau or division within the sheriff's department, and that request shall be reviewed the same as any other request from within the department.

(j) This section shall become operative in the County of San Diego when the board of supervisors adopts a resolution declaring this section operative. The implementation of this section shall be subject to approval and adoption by the board of supervisors of necessary actions, appropriations, and ordinances consistent with the charter of the County of San Diego and other statutory authority.

(k) This section shall remain in effect only until January 1, 2005, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date. The repeal of this section does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Subdivision (k) of Section 72114.2 is added to provide for the automatic repeal of this section on January 1, 2005.

Gov't Code § 72115 (amended). Consolidation of court-related services

SEC. ___. Section 72115 of the Government Code is amended to read:

72115. (a) ~~Notwithstanding any other provision of law, the Board of Supervisors of San Bernardino County may, no later than 30 days after the effective date of this section, commence public hearings regarding the abolition of the marshal's office and the transferring of court-related services provided by the marshal within the county to the sheriff's department. Within 30 days of the commencement of public hearings as authorized by this section, the board shall make a final determination as to the most cost-effective and most efficient manner of providing court-related services.~~

~~(b) Concurrently, an election may be conducted among all of the judges of the Consolidated Courts of San Bernardino County to provide an advisory recommendation to the board of supervisors on the abolition of the marshal's office and the transferring of court-related services provided by the marshal within the county to the sheriff's department. The outcome shall be determined by a simple majority of votes cast. The~~

~~vote of the judges shall then be forwarded to the board of supervisors prior to the close of the public hearing, and the board of supervisors shall take into advisement the recommendation of the judges provided by the election report.~~

~~(c) If the board determines to abolish the marshal's office and transfer the duties of the marshal to the sheriff's office, the abolishment of the office and the transfer of those duties shall be completed within 30 days of that determination.~~ This section applies to the abolition of the marshal's office and the transfer of court-related services provided by the marshal within the county to the sheriff's department.

~~(d)~~ (b) The courtroom assignment of bailiffs after abolition of the marshal's office and the consolidation pursuant to this section shall be determined by a two-member committee comprised of the presiding judge of the ~~consolidated~~ superior court and the sheriff, or their designees. Any new bailiff assignments shall be made only after consultation with the affected judge or commissioner in whose courtroom a new assignment is planned.

It is the intent of the Legislature, in enacting this subdivision, to ensure that courtroom assignments are made in a manner which best assures that the interests of the affected judge or commissioner and bailiff are protected.

~~(e)~~ (c) Notwithstanding any other provision of law, the marshal and all personnel of the marshal's office affected by the abolition of the marshal's office in San Bernardino County shall become employees of the sheriff's department at their existing or equivalent classification, salaries, and benefits, and, except as may be necessary for the operation of the agency under which court-related services and the service of civil and criminal process are consolidated, they shall not be involuntarily transferred out of the consolidated office for a period of five years following the consolidation.

~~(f)~~ (d) Personnel of the abolished marshal's office shall be entitled to request an assignment to another division within the sheriff's department, and that request shall be reviewed in the same manner as any other request from within the department. Persons who accept a voluntary transfer from the court services/civil division shall waive their rights pursuant to subdivision ~~(e)~~ (c).

~~(g)~~ (e) Permanent employees of the marshal's office on the effective date of the abolition of the marshal's office pursuant to this section shall be deemed to be qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office on the effective date of a consolidation pursuant to this section shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

~~(h)~~ (f) All county service or service by employees of the marshal's office on the effective date of a consolidation pursuant to this section shall be counted toward seniority in the consolidated office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

~~(i)~~ (g) No employee of the marshal's office on the effective date of a consolidation pursuant to this section shall lose peace officer status, or otherwise be adversely affected as a result of the abolition and merger of personnel into the sheriff's department.

(h) This section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date. The repeal of this section does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Former subdivisions (a)-(c) are deleted and new subdivision (a) is added to Section 72115 to reflect consolidation of court-related services in San Bernardino County within the sheriff's office, effective October 9, 1999.

Subdivision (b) is amended to reflect unification of the municipal and superior courts in San Bernardino County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 10, 1998.

Subdivision (h) is added to provide for the automatic repeal of this section in fifteen years.

Gov't Code § 72116 (amended). Consolidation of court-related services

SEC. ___. Section 72116 of the Government Code is amended to read:

72116. (a) ~~Notwithstanding any other provision of law, the board of supervisors of Shasta County may find, after holding a public hearing on the issue, that cost savings or efficiencies can be realized by consolidation of court-related services provided by the marshal and sheriff within that county. If this finding is made, an election shall be conducted among all of the judges of the superior and municipal courts of the county to determine the agency, either the marshal or the sheriff, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast by secret ballot, provided, that the total number of votes cast exceeds 50 percent of the number of superior and municipal court judges in the county, by at least one vote. The executive officer of the courts shall administer the election and tabulate the results. The presiding judges of the superior and municipal courts shall inform the board of supervisors of the results of the election within 15 days of the election. The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by a majority of the judges of the superior and municipal courts in the election. If an election is not conducted within 90 days of notification of the board of supervisors' finding, or if the results of the election are evenly divided, the board of supervisors shall determine under which agency, either the marshal or the sheriff, court-related services shall be consolidated, and shall proceed to implement consolidation as if on the basis of a majority vote of the judges of the superior and municipal courts.~~ This section applies to the consolidation of court-related services within the marshal's office in Shasta County.

(b) Except as provided in subdivision (f), all personnel of the marshal's office or personnel of the sheriff's office affected by a consolidation of court-related services under this section ~~or Section 26670~~ shall become employees of that consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of the consolidated court-related services office for a period of four years following the consolidation.

(c) Permanent employees of the marshal's office or sheriff's office on the effective date of consolidation under this section ~~or Section 26670~~ shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this section ~~or Section 26670~~ shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

(d) All county service or service by employees of the marshal's office or the sheriff's office on the effective date of a consolidation under this section ~~or Section 26670~~ shall be counted toward seniority in that court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(e) No employee of the marshal's office or the sheriff's office on the effective date of a consolidation under this section ~~or Section 26670~~ shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court-related services.

(f) ~~In the event that court-related services are consolidated under the marshal's office, all~~ All sheriff's bailiffs affected by the consolidation shall be given the option of becoming employees of the marshal's office or of remaining with the sheriff's office. If a staffing shortage is created by the exercise of this option by these bailiffs, the marshal may accept qualified applicants from the sheriff's office under the provisions of subdivisions (b), (c), (d), and (e).

Comment. Section 72116 is amended to reflect consolidation of court-related services in Shasta County within the marshal's office, effective July 1, 1993.

The section is also amended to delete references to former Section 26670.

Gov't Code § 72150 (repealed). Additional deputies

SEC. ___. Section 72150 of the Government Code is repealed.

~~72150. If an increase in business of any municipal court or other emergency requires a greater number of employees for the prompt and faithful discharge of the business of the court than the number expressly provided by law, or requires the performance of duties of positions in the lowest salary bracket where all such positions have been filled, with the approval of the judge or judges, the clerk or the marshal of the court, or both, may appoint as many additional deputies as will enable them to promptly and faithfully discharge the duties of their respective offices.~~

Comment. Section 72150 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620(a) (job classifications and appointments).

Gov't Code § 72151 (repealed). Selection and compensation of additional deputies

SEC. ___. Section 72151 of the Government Code is repealed.

~~72151. The additional deputies shall be selected in the same manner as those for whom express provision is made, and they shall receive compensation from the same source and in the same amount as the salary provided by law for the position of deputy clerk or deputy marshal of such court, respectively, but may hold office by virtue of such appointment not longer than 90 days after the adjournment of the next regular session of the Legislature. Where the provisions of law applicable to the particular municipal court provide for increments of salary after a specified period of service, additional deputies employed pursuant to Section 72150 and this section shall receive credit toward such increments for service performed pursuant to these sections. No deputy so temporarily appointed shall be eligible for reappointment pursuant to this article, unless the increase in business of the court or other emergency for which the appointment has been made is deemed by the judge or judges to still exist, in either of which case such deputy or deputies may receive one reappointment, to be made as in the case of an original appointment.~~

Comment. Section 72151 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620(a) (job classifications and appointments), 71623 (salaries), 71640-71645 (employment selection and advancement).

Gov't Code § 72190 (amended). Court commissioners

SEC. ___. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners ~~of municipal court~~s shall exercise all the powers and perform all of the duties ~~authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be~~ prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. ~~The commissioners of municipal courts shall possess the same qualifications the law requires of a judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of law.~~ They shall be ex officio deputy clerks.

~~Notwithstanding any other provision of law, a commissioner of a municipal court or a justice court of any judicial district in this state who has been duly appointed and has thereafter been retired for service, or a commissioner of a superior court in this state~~ A commissioner who has been duly appointed and has thereafter been retired from service, may be assigned by the presiding judge ~~or sole judge of a municipal court~~ to serve as a court commissioner of the court for any periods of time as he or she is needed for the prompt and efficient discharge of the business of that court. While serving, he or she shall be paid the full compensation of a court commissioner, payable as follows: he or she shall continue to receive his or her retirement allowance, and in addition the ~~county~~ court shall pay him or her the amount equal to the difference between the retirement allowance and full compensation. That employment shall not operate to reinstate him or her as a member of the ~~county~~ retirement system or to terminate or suspend his or her retirement rights or allowance, and no deductions shall be made from his or her compensation as contributions to the retirement system.

Comment. Section 72190 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70214 (commissioners and referees).

The section is also amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Section 71622 (subordinate judicial officers). See also Section 69917 (practice of law by subordinate judicial officers).

The section is also amended to reflect enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court operations). *Cf.* Section 77003(a)(1) (Judicial Council approval required for commissioner positions created after July 1, 1997).

The section is also amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Section 69508.5 (presiding judge).

Gov't Code § 72190.1 (amended). Arraignments

SEC. ___. Section 72190.1 of the Government Code is amended to read:

72190.1. A commissioner ~~of a municipal court~~ may conduct arraignment proceedings ~~in the court~~ on a complaint if directed to perform those duties by the presiding ~~or sole~~ judge of the court, including the issuance and signing of bench warrants.

Comment. Section 72190.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Sections 70211 (effect of unification on judgeships), 70214 (commissioners and referees).

The section is also amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number

of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Section 69508.5 (presiding judge).

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

SEC. ___. Section 72190.2 of the Government Code is amended to read:

72190.2. If directed to perform such duties by the presiding judge ~~or sole judge of the court~~, a commissioner ~~of the municipal court~~ may issue and sign a bench warrant for the arrest of a defendant who fails to appear in court when required to appear by law or who fails to perform any act required by court order.

Comment. Section 72190.2 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Sections 70211 (effect of unification on judgeships), 70214 (commissioners and referees).

The section is also amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Section 69508.5 (presiding judge).

Gov't Code § 72190.5 (repealed). Authorization of unauthorized positions

SEC. ___. Section 72190.5 of the Government Code is repealed.

~~72190.5. All trial court commissioner and referee positions in the municipal courts that were funded and filled as of January 1, 1999, and that are not authorized under any other section of the Government Code are hereby authorized under this section. This section is not intended to replace, modify, or otherwise alter the terms, conditions, or qualifications of any existing section pertaining to the appointment of trial court commissioners and referees.~~

Comment. Section 72190.5 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Section 71622 (subordinate judicial officers).

Gov't Code § 72191 (repealed). Powers of municipal court jury commissioner

SEC. ___. Section 72191 of the Government Code is repealed.

~~72191. The jury commissioner of a municipal court shall exercise all the powers of the jury commissioner of a superior court insofar as they are applicable to municipal courts, and in addition without extra compensation may be appointed and serve as a general commissioner of the court if he possesses the qualifications prescribed therefor.~~

Comment. Section 72191 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70214 (commissioners and referees); Code Civ. Proc. § 195 (jury commissioner).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620(a) (job classifications and appointments), 71622 (subordinate judicial officers), 71624 (retirement plans), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system).

Gov't Code § 72192 (repealed). Appointment of commissioner or jury commissioner

SEC. ___. Section 72192 of the Government Code is repealed.

~~72192. Whenever the appointment of a commissioner or jury commissioner is authorized by law, he shall be appointed by and hold office at the pleasure of a majority~~

~~of the judges or the judge senior in service when there is an equal division of the judges. He shall be a member of any retirement system which includes municipal court attaches.~~

Comment. Section 72192 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70214 (commissioners and referees); Code Civ. Proc. § 195 (jury commissioner).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71620(a) (job classifications and appointments), 71622 (subordinate judicial officers), 71624 (retirement plans), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system).

Gov't Code § 72194 (repealed). Municipal court reporters

SEC. ___. Section 72194 of the Government Code is repealed.

~~72194. By order entered upon the minutes of the court, a majority of the judges of the municipal court may appoint as many competent phonographic reporters as the business of the court requires, to be known as official reporters of such court. The official reporters shall hold office during the pleasure of the judges of such court.~~

Comment. Section 72194 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 69941 (appointment of official reporters).

Gov't Code § 72194.5 (repealed). Use of electronic equipment

SEC. ___. Section 72194.5 of the Government Code is repealed.

~~72194.5. Whenever an official court reporter or a temporary court reporter is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. The court shall assign available reporters first to report preliminary hearings and then to other proceedings. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use.~~

Comment. Section 72194.5 is continued as Section 69957.

Gov't Code § 72195 (repealed). Municipal court reporters

SEC. ___. Section 72195 of the Government Code is repealed.

~~72195. Sections 69942 to 69955, inclusive, of this code and Section 273 of the Code of Civil Procedure are hereby made applicable to the qualifications, duties, official oath, certification of transcripts, fees, and notes of official reporters of municipal courts, except that the fee for reporting testimony and proceedings in contested cases, except for official reporters of municipal courts where a statute provides otherwise, is fifty-five dollars ($55) a day, or any fractional part thereof.~~

Comment. Section 72195 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 69941 *et seq*. (official reporters generally).

Gov't Code § 72196 (repealed). Assignment to municipal court

SEC. ___. Section 72196 of the Government Code is repealed.

~~72196. Whenever the business of the court requires, the presiding or sole judge of the municipal court may request the services of one or more official reporters of the superior court within the same county to act as pro tempore phonographic reporter of the municipal court in criminal cases. Any such request shall be addressed to the presiding judge of the superior court. Such request shall be granted or denied in the manner and subject to the provisions set forth in Article 9 (commencing with Section 69941) of Chapter 5 of Title 8 of this code.~~

Comment. Section 72196 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 72198 (repealed). Compensation on assignment to municipal court

SEC. ___. Section 72198 of the Government Code is repealed.

~~72198. In any county in which the official reporter of the superior court receives an annual salary fixed by law no additional compensation shall be paid to such reporter for any service rendered by the reporter while assigned to the municipal court; provided, however, that any official reporter of the superior court assigned to a municipal court situated at a place other than the situs of the superior court in which said reporter regularly serves shall receive mileage from said superior court to the municipal court to which the reporter has been assigned, and return, for each day, or fraction thereof, during which said superior court reporter serves in the municipal court; the rate for mileage so allowed shall be that fixed and paid to county employees generally.~~

Comment. Section 72198 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 72199 (repealed). Daily transcript requiring more than one reporter

SEC. ___. Section 72199 of the Government Code is repealed.

~~72199. Notwithstanding any other provision of law, whenever a daily transcript is ordered in a civil case requiring the services of more than one phonographic reporter, the party requesting the daily transcript, in addition to any other required fee, shall pay a fee per day, or portion thereof, equal to the per diem rate for pro tempore reporters established by statute, local rule, or ordinance for the services of each additional reporter for the first day and each subsequent day the additional reporters are required.~~

Comment. Section 72199 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 69953.5 (daily transcript requiring more than one reporter).

Gov't Code §§ 72230-72232 (repealed). Witness and juror fees

SEC.__. Article 6 (commencing with Section 72230) of Chapter 8 of Title 8 of the Government Code is repealed.

Comment. Sections 72230-72232 are repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For witness and juror fees in superior court, see Sections 29603 (payments to jurors and witnesses), 68093 (witness fees), 68098 (witness fees in criminal cases).

Gov't Code §§ 72270-72274 (repealed). Departments

SEC.__. Article 7 (commencing with Section 72270) of Chapter 8 of Title 8 of the Government Code is repealed.

Comment. Sections 72270-72274 are repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For provisions governing the selection and duties of the presiding judge in superior court, see Sections 69508, 69508.5.

Gov't Code § 72301 (amended). Bail

SEC. ___. Section 72301 of the Government Code is amended to read:

72301. The clerk of the ~~municipal court or~~ superior court ~~in a county in which there is no municipal court~~ or one or more deputy clerks, the sheriff or one or more deputy sheriffs, or one or more city police officers shall be in attendance at all hours of the day and night, including Sundays and holidays, and may fix and accept bail pursuant to procedures established by the court for the appearance before the court of any defendant charged in the court ~~with an offense of which the court has jurisdiction~~ or whenever a defendant has been arrested and booked within the ~~territorial limits of said judicial district~~ <u>county</u> for having committed a misdemeanor. The amount of bail shall be pursuant to a schedule of bail in such cases previously fixed and approved by the judges of the court at their annual meeting. If a warrant has been issued for the arrest of the defendant, the bail shall be in the amount fixed in the warrant. The bail shall be cash, negotiable United States Treasury bonds, or a surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code.

Comment. Section 72301 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Code Civ. Proc. § 38 (judicial district).

Gov't Code § 72400 (repealed). Traffic referees

SEC. ___. Section 72400 of the Government Code is repealed.

~~72400. The judges of a municipal court having three or more judges may appoint one traffic referee, who shall hold office at the pleasure of the judges. The judges of a municipal court having more than 20 judges and located in a county containing a population, as determined by the 1970 federal decennial census, of 1,300,000 and under 1,400,000, may appoint two traffic referees, who shall hold office at the pleasure of the judges. A traffic referee shall serve his court full time or, if appointed to serve two or more courts, sufficient time with each to total full time. A person is ineligible to be a traffic referee unless he is a member of the State Bar of California or has had five years' experience as a justice court judge in this state within the eight years immediately preceding his appointment as a traffic referee.~~

Comment. Section 72400 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71622 (subordinate judicial officers).

Gov't Code § 72403 (amended). Powers and duties

SEC. ___. Section 72403 of the Government Code is amended to read:

72403. The traffic referee shall have the power of a deputy clerk of the court, <u>and</u> shall perform such other duties as may be assigned ~~to him~~ by the court~~, and shall be a member of any retirement system which includes the attaches of the court. In addition if he possesses the qualifications prescribed by law for such office he may be appointed and~~

~~serve as a commissioner of the court and receive the monthly salary provided by law for a commissioner of the court~~.

Comment. Section 72403 is amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Section 71612 (existing terms of employment not affected), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71629 (trial court employment benefits not affected). See also Section 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court).

Gov't Code § 72404 (repealed). Salary

SEC. ___. Section 72404 of the Government Code is repealed.

~~72404. Unless otherwise provided by statute the traffic referee shall receive a salary equal to 50 percent of the salary of a judge of the municipal court.~~

Comment. Section 72404 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71622 (subordinate judicial officers), 71623 (salaries).

Gov't Code § 72405 (repealed). Cross assignment of commissioner

SEC. ___. Section 72405 of the Government Code is repealed.

~~72405. Any commissioner of the court having the qualifications prescribed in this article for a traffic referee or those prescribed in Section 72190 for commissioners may at the direction of the court exercise any of the powers which a traffic referee may exercise.~~

Comment. Section 72405 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Section 71622 (subordinate judicial officers).

Gov't Code § 72406 (repealed). Grandfather clause

SEC. ___. Section 72406 of the Government Code is repealed.

~~72406. Notwithstanding the provisions of Section 72400 any person who was performing duties substantially comparable to those set forth in this article on the effective date of this article and who has performed such duties for a period of at least one year prior to July 1, 1969, shall be eligible for appointment to the position of traffic referee and shall receive a salary equal to 65 percent of the salary of a judge of the municipal court.~~

Comment. Section 72406 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71622 (subordinate judicial officers), 71623 (salaries).

Gov't Code § 72407 (amended). Retired traffic referee

SEC. ___. Section 72407 of the Government Code is amended to read:

72407. Notwithstanding any other provision of law, a traffic referee in any county with a population of 3,000,000 or more who has been duly appointed and has thereafter been retired for service, may be assigned by the presiding judge of a court to serve as a traffic referee of the court for such periods as ~~he is~~ needed for the prompt and efficient discharge of the business of that court. While so serving, ~~he~~ the traffic referee shall be paid the full compensation of a traffic referee, payable as follows: ~~He~~ The traffic referee shall continue to receive ~~his~~ a retirement allowance, and in addition ~~the county shall pay him~~ the amount

equal to the difference between such retirement allowance and such full compensation. Such employment shall not operate to reinstate ~~him~~ the traffic referee as a member of the ~~county~~ retirement system or to terminate or suspend ~~his~~ the traffic referee's retirement rights or allowance, and no deductions shall be made from ~~his~~ the traffic referee's compensation as contributions to the retirement system.

Comment. Section 72407 is amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Section 71622 (subordinate judicial officers).

The section is also amended to reflect enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court operations).

Gov't Code § 72408 (repealed). Santa Barbara County

SEC. ___. Section 72408 of the Government Code is repealed.

~~72408. (a) Notwithstanding Section 72400, in Santa Barbara County, upon adoption of a resolution described in subdivision (b) by the board of supervisors, the judges of the municipal court may appoint a traffic referee or a hearing officer who may hear traffic matters and exercise the powers of a traffic referee. Either the traffic referee or the hearing officer shall hold office at the pleasure of the judges of the municipal court.~~

~~(b) The county shall be bound by, and the resolution adopted by the board of supervisors shall specifically recognize, the following conditions:~~

~~(1) The county has sufficient funds for the support of either position and any staff who will provide direct support to the position, agrees to assume any additional costs that may result therefrom, and agrees that no state funds shall be made available, or shall be used, in support of this position or any staff who provide direct support to this position.~~

~~(2) Neither the traffic referee nor the hearing officer shall be deemed a judicial position for purposes of calculating trial court funding pursuant to Section 77202.~~

~~(3) The salary for either position and for any staff who provide direct support to the position shall not be considered as part of court operations for purposes of Sections 77003 and 77204.~~

~~(4) The county agrees not to seek funding from the state for payment of the salary, benefits, or other compensation for such a referee or hearing officer or for any staff who provide direct support to the position.~~

Comment. Section 72408 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71622 (subordinate judicial officers).

(2) Enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court operations).

(3) Unification of the municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

Gov't Code § 72450 (repealed). Traffic trial commissioners

SEC. ___. Article 10 (commencing with Section 72450) of Chapter 8 of Title 8 of the Government Code is repealed.

Comment. Section 72450 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70212 (transitional provisions).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71622 (subordinate judicial officers), 71623 (salaries). See also Section 69917 (practice of law by subordinate judicial officers).

(3) Enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court operations).

Gov't Code §§ 72600-72784 (repealed). Los Angeles County municipal court districts

SEC. ___. Chapter 9 (commencing with Section 72600) of Title 8 of the Government Code is repealed.

Comment. Sections 72600-72784 are repealed to reflect:

(1) Unification of the municipal and superior courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution, effective January 22, 2000. See Sections 70211 (former municipal court judgeships continued as superior court judgeships), 70212 (transitional provisions). See also Sections 68070 (local rules of court), 69508 (presiding judge), 69586 (number of judges in Los Angeles County); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection); Cal. R. Ct. 6.603 (authority and duties of presiding judge). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Los Angeles County, effective January 1, 1994. See Sections 26639-26639.3 (sheriff-marshal consolidation). See also Sections 26726 (fees for sheriff keeping property under attachment, execution, possession, or sale), 77212.5(a) (agreement with sheriff's department regarding court security services).

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71612 (existing terms of employment not affected), 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 68086 (fees for reporting services), 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters).

(4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 69952 (payment from Trial Court Operations Fund).

Gov't Code §§ 72708-72713 (added). Los Angeles County

SEC. ___. Chapter 9 (commencing with Section 72708) is added to Title 8 of the Government Code, to read:

Chapter 9. Los Angeles County

§ 72708. Application of chapter

72708. This chapter applies to proceedings in the Los Angeles County Superior Court that would have been within the jurisdiction of the former Municipal Court of the Los Angeles Judicial District as of January 21, 2000.

Comment. Section 72708 is added to make clear that Chapter 9 applies only to superior court proceedings that would have been within the jurisdiction of the former Municipal Court of the Los Angeles Judicial District prior to unification.

§ 72709. Payment of official reporters' salaries and benefits

72709. The salaries and benefits of official reporters shall be paid from the reporters' salary fund.

Comment. Section 72709 continues the provisions of former Section 72709 that apply to the reporters' salary fund.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 72709 that are not continued, see the Comment to former Chapter 9 (commencing with former Section 72600).

§ 72710. Payment of fees and benefits of official reporters pro tempore

72710. On order of the court the per diem fees and benefits of official reporters pro tempore shall be paid from the reporters' salary fund.

Comment. Section 72710 continues the provisions of former Section 72710 that apply to the reporters' salary fund.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 72710 that are not continued, see the Comment to former Chapter 9 (commencing with former Section 72600).

§ 72711. Reporting and transcription fees

72711. (a) Fees for reporting services payable by law by the parties to proceedings in the court to official reporters or official reporters pro tempore shall be paid to the clerk of the court, who shall deposit them in the reporters' salary fund.

(b) Fees for transcription of testimony and proceedings in the court shall be paid by the parties to official reporters and official reporters pro tempore as otherwise provided by law, and in all cases where by law the court may direct the payment of transcription fees out of the Trial Court Operations Fund, the fee on order of the court shall be paid from the reporters' salary fund, except fees for transcription of testimony and proceedings in felony cases, which shall be paid from the Trial Court Operations Fund.

Comment. Subdivision (a) of Section 72711 continues the first paragraph of former Section 72711, with revisions to reflect the repeal of Article 3 (commencing with former Section 72700). See Section 68086 (fees for reporting services).

Subdivision (b) continues the second paragraph of former Section 72711, replacing "county treasury" with "Trial Court Operations Fund" to reflect enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 69952 (payment from Trial Court Operations Fund).

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 72711 that are not continued, see the Comment to former Chapter 9 (commencing with former Section 72600).

§ 72711.5. Electronic or stenographic recording

72711.5. The reporting and transcription fees payable pursuant to Section 72711 shall also be payable in the same sums and in the same manner by the parties to proceedings in the court for electronically recording an action or proceeding pursuant to Section 69957 or for transcriptions of testimony and proceedings in the court stenographically recorded. The fees shall be paid to the clerk of the court, who shall deposit them in the reporters' salary fund. In any case where by law the court may direct the payment of a transcription fee out of the Trial Court Operations Fund, on order of the court the fee for transcription of testimony and proceedings in the court electronically recorded shall be paid from the reporters' salary fund, except fees for transcription of testimony and proceedings in felony cases, which shall be paid from the Trial Court Operations Fund.

Comment. Section 72711.5 continues former Section 72711.5, replacing the reference to former Section 72194.5 with a reference to Section 69957, replacing "per diem" with "reporting"

for consistency of terminology, and replacing "county treasury" with "Trial Court Operations Fund" to reflect enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 69952 (payment from Trial Court Operations Fund).

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 72712. Reporters' salary fund

72712. There shall be set aside from the revenue of the court a revolving fund in the amount of seven hundred fifty thousand dollars ($750,000). The fund shall be known as the Reporters' Salary Fund.

At the time of each monthly distribution of the revenue of the court to the cities within the former Los Angeles Judicial District and to the county within which the district was established, the clerk of the court shall deduct proportionately from their respective total shares such sum as will, when added to the sum then remaining in the fund, equal seven hundred fifty thousand dollars ($750,000) and deposit it in the fund. Such sum shall include the cost incurred pursuant to Section 69957 from electronic recording devices, appurtenant equipment, supplies, recordings and transcriptions produced from electronic recording of testimony and proceedings in the court.

Deductions from the county's share of the revenue shall be made from that portion of it distributable to the general fund of the county, and deductions from each city's share shall be made from that portion of it distributable to the general fund of each city.

For the purposes of this section the "revenue" of the court includes all fines, forfeitures, and fees accruing to the cities or the county, except law library fees.

Comment. The first paragraph of Section 72712 continues the first paragraph of former Section 72712 without change.

The second paragraph continues the second paragraph of former Section 72712 with revisions to reflect the repeal of Section 72194.5 and unification of the municipal and superior courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution, effective January 22, 2000. See Code Civ. Proc. § 38 (judicial district).

The third paragraph continues the third paragraph of former Section 72712, replacing "salary fund of the county" with "general fund of the county" to reflect enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations).

The fourth paragraph continues the fourth paragraph of former Section 72712 without change.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 72713. Reporters' salary fund deficiency

72713. (a) If at any time the reporters' salary fund is insufficient, on order of the court the amount of the deficiency shall be paid from the Trial Court Operations Fund.

(b) The county treasurer shall be the depositary, and the county auditor the disbursing agent, for the reporters' salary fund.

Comment. Subdivision (a) of Section 72713 continues the first paragraph of former Section 72713, replacing "general fund of the county" with "Trial Court Operations Fund" to reflect enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Subdivision (b) continues the second paragraph of former Section 72713 without change, except to insert "reporters' salary" before "fund" for purposes of clarification.

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73075-73096.1 (repealed). Alameda County municipal court districts

SEC. ___. Chapter 9.1 (commencing with Section 73075) of Title 8 of the Government Code is repealed.

Comment. Sections 73075-73096.1 are repealed to reflect:

(1) Unification of the municipal and superior courts in Alameda County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 31, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69580 (number of judges in Alameda County); Cal. Const. art. VI, § 16 (election of judges); Code Civ. Proc. § 38 (judicial district); Elec. Code § 8203 (incumbent as only nominee). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

Gov't Code §§ 73100-73122 (repealed). San Bernardino County Municipal Court District

SEC. ___. Chapter 9.2 (commencing with Section 73100) of Title 8 of the Government Code is repealed.

Comment. Sections 73100-73122 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Bernardino County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 10, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Sections 69508 (presiding judge), 69594 (number of judges in San Bernardino County); Cal. Const. art. VI, § 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq.* (jury selection). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in San Bernardino County, effective October 9, 1999. *Cf.* Section 26603 (sheriff shall attend superior court). For provisions governing keepers fees, see Sections 26726 (fees for sheriff keeping property under attachment, execution, possession, or sale), 71266 (sheriff fee statutes applicable to marshals), 72112 (deputy marshals serving as custodians).

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 68086 (fees for reporting services), 69941 (appointment of official reporters), 69953.5 (daily transcript requiring more than one reporter), 72190 (court commissioners).

(4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 69952 (payment from Trial Court Operations Fund).

Gov't Code § 73300 (repealed). Salary payments

SEC. ___. Section 73300 of the Government Code is repealed.

~~73300. When an annual salary is prescribed in this chapter, the salary is payable in equal monthly installments, except that if an annual salary is prescribed in this chapter for the judges, clerks, and other officers and attaches of the municipal court of the City and~~

~~County of San Francisco, such salary is payable either in equal monthly installments or in equal semimonthly installments, as may be determined pursuant to law.~~

Comment. Section 73300 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For provisions relating to the compensation of superior court judges, see Cal. Const. art. III, § 4, art. IV, § 19, and Sections 68202, 68203.

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Section 71623 (salaries).

Gov't Code § 73301 (amended). Prior service in court superseded by municipal court

SEC. ___. Section 73301 of the Government Code is amended to read:

73301. Persons who succeeded to positions in the municipal court upon its establishment shall receive credit for continuous prior service in superseded courts and in the sheriff's department or constabulary of the county, and, in addition to the minimum rate, such persons shall receive the annual increments commensurate with such years of prior service up to the maximum rate set. This section applies to municipal courts provided for in <u>former</u> Articles 3, 7, 12, 13, 15, 18, 22, 23, 29, 31, and 32 of this chapter.

Comment. Section 73301 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 73330 (repealed). Calaveras County consolidated courts

SEC. ___. Article 1.5 (commencing with Section 73330) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Section 73330 is repealed to reflect:

(1) Unification of the municipal and superior courts in Calaveras County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Sections 70210 (adoption of rules), 70212 (officers and employees), 70215 (construction with other laws).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620(a) (job classifications and appointments), 71623 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Code Civ. Proc. § 195 (jury commissioner).

Gov't Code §§ 73340-73366 (repealed). Contra Costa County municipal court districts

SEC. ___. Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73340-73366 are repealed to reflect:

(1) Unification of the municipal and superior courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69582 (number of judges in Contra Costa County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters), 72190 (court commissioners).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 73390-73399.7 (repealed). Kings County Municipal Court

SEC. ___. Article 3 (commencing with Section 73390) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73390-73399.7 are repealed to reflect:

(1) Unification of the municipal and superior courts in Kings County pursuant to Article VI, Section 5(e), of the California Constitution, effective February 8, 2001. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69585.5 (number of judges in Kings County); Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters); Code Civ. Proc. § 195 (jury commissioner).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 73390-73396 (added). Kings County

SEC. ___. Article 3 (commencing with Section 73390) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 3. Kings County

§ 73390. Kings County Municipal Court

73390. This article applies to the municipal court for the County of Kings. The court referred to in this article shall be the successor of the court to be established by the consolidation of the Corcoran, Hanford, and Lemoore Judicial Districts by the Board of Supervisors of the County of Kings, and it shall be known as the Kings County Municipal Court.

Comment. Section 73390 continues former Section 73390 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73396. Municipal court facilities

73396. Facilities for the court shall be maintained in the Cities of Hanford, Corcoran, Lemoore, and (if incorporated pursuant to Section 73391.5) Avenal, and in such other locations within the County of Kings as are designated by the board of supervisors. The court shall hold sessions at each facility as business requires. At the direction of the court, arraignment of criminal defendants who are in custody at the Kings County Jail facility shall be held in the court facility located in Hanford.

Comment. Section 73396 continues former Section 73396 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73400-73408 (repealed). Hanford Judicial District

SEC. ___. Article 3.1 (commencing with Section 73400) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73400-73408 are repealed to reflect:

(1) The fact that Article 3.1 was superseded by Article 3 (commencing with Section 73390) establishing the Kings County Municipal Court, effective June 29, 1992.

(2) Unification of the municipal and superior courts in Kings County pursuant to Article VI, Section 5(e), of the California Constitution, effective February 8, 2001. See Section 69585.5 (number of judges in Kings County).

Gov't Code §§ 73430-73443 (repealed). Kern County municipal court districts

SEC. ___. Article 4 (commencing with Section 73430) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73430-73443 are repealed to reflect:

(1) Unification of the municipal and superior courts in Kern County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 2000. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69585 (number of judges in Kern County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 73480-73490 (repealed). Lodi Municipal Court District

SEC. ___. Article 5 (commencing with Section 73480) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73480-73490 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69598 (number of judges in San Joaquin County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 73520-73530 (repealed). San Mateo County Judicial District

SEC. ___. Article 6 (commencing with Section 73520) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73520-73530 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Mateo County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 12, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69599 (number of judges in San Mateo County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 68086 (fees for reporting services), 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations). See also Section 68073 (responsibility for court operations and facilities).

Gov't Code §§ 73560-73572 (repealed). Monterey County Municipal Court District

SEC. ___. Article 7 (commencing with Section 73560) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73560-73572 are repealed to reflect:

(1) Unification of the municipal and superior courts in Monterey County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 18, 2000. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 68073 (responsibility for court operations and facilities), 69590 (number of judges in Monterey County); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq.* (jury selection). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Section 69917 (practice of law by subordinate judicial officers).

Gov't Code §§ 73560-73561 (added). Monterey County

SEC. ___. Article 7 (commencing with Section 73560) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 7. Monterey County

§ 73560. Monterey County Municipal Court District

73560. This article applies to the Monterey County Municipal Court District, which encompasses the entire County of Monterey.

Comment. Section 73560 continues former Section 73560 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73561. Municipal court facilities

73561. Facilities for the court shall be maintained in the Cities of Salinas and Monterey and at court facilities provided elsewhere in accordance with law. The court shall determine the nature and frequency of sessions held at court locations.

Comment. Section 73561 continues former Section 73561 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73580-73587 (repealed). Lake County Municipal Court

SEC. ___. Article 7.5 (commencing with Section 73580) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73580-73587 are repealed to reflect:

(1) Unification of the municipal and superior courts in Lake County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 30, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69585.7 (number of judges in Lake County); Cal. Const. art. VI, § 16 (election of judges); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

Gov't Code §§ 73600-73608 (repealed). El Dorado County Municipal Court

SEC. ___. Article 8 (commencing with Section 73600) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73600-73608 are repealed to reflect:

(1) Unification of the municipal and superior courts in El Dorado County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. *Cf.* former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 73640-73650 (repealed). El Cajon Municipal Court District

SEC. ___. Article 9 (commencing with Section 73640) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73640-73650 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, §

23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69595 (number of judges in San Diego County); Code Civ. Proc. § 38 (judicial district). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations), 77211 ("900" telephone numbers). See also Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 73640-73648 (added). El Cajon Judicial District

SEC. ___. Article 9 (commencing with Section 73640) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 9. El Cajon Judicial District

§ 73640. El Cajon Judicial District

73640. This article applies to the municipal court established in a district embracing the Judicial District of El Cajon.

Comment. Section 73640 continues former Section 73640 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73642. Benefits for judges of the El Cajon Judicial District

73642. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired superior court judges under that act.

Comment. Section 73642 continues former Section 73642 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73648. Sessions within the El Cajon Judicial District

73648. The municipal court shall hold sessions at such location, or locations, within the El Cajon Judicial District as the Board of Supervisors of the County of San Diego may designate.

Comment. Section 73648 continues former Section 73648 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73660-73668 (repealed). Humboldt County Municipal Court District

SEC. ___. Article 9.5 (commencing with Section 73660) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73660-73668 are repealed to reflect:

(1) Unification of the municipal and superior courts in Humboldt County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 10, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 68073 (responsibility for court operations and facilities), 69508 (presiding judge), 69584 (number of judges in Humboldt County); Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication). For provisions relating to the sheriff, see Sections 26603 (superior court attendance), 26608, 26609, 26660-26665 (process and notices), 26611 (court crier), 26720-26751 (fees). See also Code Civ. Proc. § 262.4 (conveyances on sale of real estate).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 69953.5 (daily transcript requiring more than one reporter).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Gov't Code §§ 73660-73666 (added). Humboldt County

SEC. ___. Article 9.5 (commencing with Section 73660) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 9.5. Humboldt County

§ 73660. Humboldt County Municipal Court District

73660. There is in the County of Humboldt a single municipal court district known as the Humboldt County Municipal Court District.

Comment. Section 73660 continues former Section 73660 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73661. Municipal court facilities

73661. In order that the citizens of the county may have convenient access to the court, the location of permanent court facilities and locations where sessions of the court may be held other than in the county seat shall be as determined by the board of supervisors.

Comment. Section 73661 continues former Section 73661 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73665. Consolidation of marshal and sheriff offices

73665. (a) Effective January 1, 1999, the Sheriff of Humboldt County shall assume the duties and responsibilities of the Humboldt County Marshal and the office of the marshal shall be consolidated with the office of sheriff.

Upon the effective date of the consolidation there shall be established within the Humboldt County Sheriff's Department a unit designated as the Court Security Services Division. The Sheriff of Humboldt County shall be responsible for the management and operation of this division, in accordance with this article.

(b) Neither this article nor any provision hereof, shall be deemed in any manner to limit or otherwise impair the power vested by all other laws in the Superior Court of Humboldt County to secure proper provision of court-related services.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date. The repeal of this section does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Subdivision (a) of Section 73665 continues the first paragraph and the first two sentences of the second paragraph of subdivision (a) of former Section 73665.

Subdivision (b) continues subdivision (b) of former Section 73665, omitting the reference to Section 68073.

Subdivision (c) is new.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 73665 that are not continued, see the Comment to former Article 9.5 (commencing with former Section 73660).

§ 73666. Employees of marshal's office

73666. (a) Permanent employees of the marshal's office on the effective date of consolidation under this article shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office on the effective date of a consolidation under this article shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

(b) County service of employees of the marshal's office on the effective date of the consolidation under this article shall be counted toward seniority in the consolidated office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(c) No provision of this section shall be deemed to restrict the authority of the sheriff to discipline any employee in accordance with county personnel policies, and memoranda of understanding, or rules, regulations, and procedures otherwise applicable, and except as otherwise expressly provided in this section, the discretion of the sheriff to assign, promote, direct, and control employees formerly assigned to the marshal's office shall not be deemed in any manner restricted by virtue of the abolition or consolidation.

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date. The repeal of this section does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Subdivisions (a)-(c) of Section 73666 continue subdivisions (a)-(c) of former Section 73666 without change.

Subdivision (d) is new.

For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73671-73679.5 (repealed). Northern Solano Judicial District

SEC. ___. Article 9.7 (commencing with Section 73671) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73671-73679.5 are repealed to reflect:

(1) Unification of the municipal and superior courts in Solano County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Sections 26603 (superior court attendance by sheriff), 69602 (number of judges in Solano County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 68086 (fees for reporting services in civil cases generally), 69941 (appointment of official reporters), 69953.5 (daily transcript requiring more than one reporter); Code Civ. Proc. § 195 (jury commissioner).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 73680-73697 (repealed). Consolidated Fresno Municipal Court District

SEC. ___. Article 10 (commencing with Section 73680) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73680-73697 are repealed to reflect:

(1) Unification of the municipal and superior courts in Fresno County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69583 (number of judges in Fresno County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). For provisions governing the deposit of fees collected by marshals and sheriffs, see Sections 24350 (fees collected by salaried county or court officer paid into county treasury), 24353 (money collected by county or court officer paid into county treasury), 71266 (marshals' fees paid into county treasury).

Gov't Code §§ 73698-73699.6 (repealed). Central Valley Municipal Court District

SEC. ___. Article 10.5 (commencing with Section 73698) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73698-73699.6 are repealed to reflect:

(1) Unification of the municipal and superior courts in Fresno County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also

Sections 69508 (presiding judge), 69583 (number of judges in Fresno County); Cal. Const. art. VI, § 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 73698-73698.6 (added). Fresno County

SEC. ___. Article 10.5 (commencing with Section 73698) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 10.5. Fresno County

§73698. Central Valley Municipal Court District

73698. This article applies to the Central Valley Municipal Court District of Fresno County. The court referred to in this article shall become operative upon the consolidation of the Coalinga, Firebaugh, Fowler-Caruthers, Kerman, Kingsburg-Riverdale, Parlier-Selma, Reedley-Dunlap, and Sanger Judicial Districts by the Board of Supervisors of the County of Fresno.

Comment. Section 73698 continues former Section 73698 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73698.6. Municipal court facilities

73698.6. Facilities for the court shall be maintained in the Cities of Coalinga, Firebaugh, Fowler, Kerman, Kingsburg, Parlier, Selma, Reedley, and Sanger, and the communities of Caruthers and Riverdale; and in such other locations within the County of Fresno as are designated by the board of supervisors. The court shall hold sessions at each facility as business requires. At the direction of the court, arraignment of criminal defendants who are in custody at the Fresno County Detention Facility shall be held at the court facility located at the Fresno County Detention Facility.

Comment. Section 73698.6 continues former Section 73698.6 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73701-73714 (repealed). Manteca-Ripon-Escalon-Tracy Municipal Court District

SEC. ___. Article 11 (commencing with Section 73701) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73701-73714 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69598

(number of judges in San Joaquin County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 73730-73743 (repealed). Imperial County Municipal Court

SEC. ___. Article 11.5 (commencing with Section 73730) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73730-73743 are repealed to reflect:

(1) Unification of the municipal and superior courts in Imperial County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 22, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69584.5 (number of judges in Imperial County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters); Code Civ. Proc. § 195 (jury commissioner).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 73730-73732 (added). Imperial County

SEC. ___. Article 11.5 (commencing with Section 73730) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 11.5. Imperial County

§ 73730. Imperial County Municipal Court

73730. There is hereby created a municipal court district which embraces the entire County of Imperial. This article applies to the municipal court established within the district, which shall be known as the Imperial County Municipal Court.

Comment. Section 73730 continues former Section 73730 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73732. Municipal court facilities

73732. Facilities for the court shall be maintained, at or near the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

Comment. Section 73732 continues former Section 73732 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73750-73767 (repealed). Madera County Municipal Court District

SEC. ___. Article 11.6 (commencing with Section 73750) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73750-73767 are repealed to reflect:

(1) Unification of the municipal and superior courts in Madera County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 69508 (presiding judge), 69587 (number of judges in Madera County); Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Madera County, effective January 1, 2000.

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 68073 (responsibility for court operations and facilities).

Gov't Code §§ 73750-73758 (added). Madera County

SEC. ___. Article 11.6 (commencing with Section 73750) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 11.6. Madera County

§ 73750. Madera County Municipal Court District

73750. There is in the County of Madera, on and after the effective date of this section, a single municipal court district known as the Madera County Municipal Court District.

Comment. Section 73750 continues former Section 73750 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73756. Municipal court facilities

73756. Facilities for the district shall be maintained at the court facilities provided within each division. The presiding judge shall determine the nature and frequency of sessions held at the court facilities within each division.

Comment. Section 73756 continues subdivision (a) of former Section 73756 without change.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 73756 that are not continued, see the Comment to former Article 11.6 (commencing with former Section 73750).

§ 73757. Consolidation of court-related services

73757. (a) In Madera County the majority of the judges of the superior court have voted to consolidate court services and security functions in the office of the Sheriff of Madera County.

(b) The sheriff's functions shall include, but not be limited to, providing all bailiff functions for the unified superior court in Madera County, and all other duties imposed by law upon deputy sheriffs and peace officers generally.

(c) The sheriff shall be responsible for the service of all writs, notices, and other processes issued by any court or other competent authority. Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process or notices in the manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace officer to serve warrants of arrest or other process specifically directed by any court to the sheriff or any other peace officer.

(d) Each elected marshal holding office in Madera County as of January 1, 2000, shall become an employee of the Madera County Sheriff's Department in the position of Sheriff's Bailiff, as of that date and each elective position of Marshal of the Madera County Municipal Court District is abolished as of that date. Each marshal transferring to the sheriff's department pursuant to this section shall be compensated at not less than the EL-10 step of Salary Range 43 (table B). No transferring marshal shall lose peace officer status or be demoted or otherwise be adversely affected by the consolidation of court-related services accomplished by this section. Each transferring marshal employed in the position of Sheriff's Bailiff shall be deemed duly qualified for that position and no other qualifications shall be required for that employment or retention in that position. Any transferring marshal wishing to transfer to another position shall meet the qualifications of a peace officer as required by subdivision (a) of Section 832 of the Penal Code and any other requirements of the Madera County civil service system. For purposes of establishing seniority within the class of Sheriff's Bailiff, each transferring marshal shall be credited with the marshal's total years of services to Madera County as a constable and marshal.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date. The repeal of this section does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Subdivisions (a)-(d) of Section 73757 continue subdivisions (a)-(d) of former Section 73757 without change.

Subdivision (e) is new.

For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73758. Transportation of prisoners

73758. The Sheriff of Madera County shall be responsible for the transportation of prisoners held in the county's adult correctional facility to and from necessary court appearances, medical and dental trips, and transfers to or from local, state, or federal correctional facilities. To meet this responsibility, the Sheriff of Madera County shall contract with the county department of corrections, pursuant to Section 831.6 of the Penal Code, to provide these transportation services by qualified personnel of the county department of corrections.

Comment. Section 73758 continues former Section 73758 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73770-73783 (repealed). Marin County Municipal Court

SEC. ___. Article 12 (commencing with Section 73770) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73770-73783 are repealed to reflect:

(1) Unification of the municipal and superior courts in Marin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 11, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69588 (number of judges in Marin County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 72190 (court commissioners).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68086 (fees for reporting services in civil cases generally), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 73770-73771 (added). Marin County

SEC. ___. Article 12 (commencing with Section 73770) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 12. Marin County

§ 73770. Marin County Municipal Court

73770. This article applies to the judicial district of the Marin County Municipal Court.

Comment. Section 73770 continues former Section 73770 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73771. Branch court

73771. A branch court shall be maintained at an appropriate location in the former Western Judicial District.

Comment. Section 73771 continues the second sentence of former Section 73771 without change.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 73771 that are not continued, see the Comment to former Article 12 (commencing with former Section 73770).

Gov't Code §§ 73783.1-73783.9 (repealed). Mariposa County Municipal Court District

SEC. ___. Article 12.2 (commencing with Section 73783.1) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73783.1-73783.9 are repealed to reflect:

(1) Unification of the municipal and superior courts in Mariposa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 68073 (responsibility for court operations and facilities), 69588.3 (number of judges in Mariposa County); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 73783.1-73783.3 (added). Mariposa County

SEC. ___. Article 12.2 (commencing with Section 73783.1) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 12.2. Mariposa County

§ 73783.1. Mariposa County Municipal Court District

73783.1. This article applies to the municipal court established in a judicial district embracing the County of Mariposa.

Comment. Section 73783.1 continues former Section 73783.1 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73783.3. Municipal court facilities

73783.3. Facilities for the court shall be maintained at the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors. Jurors shall be drawn from the entire county.

Comment. Section 73783.3 continues former Section 73783.3 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73784-73785 (repealed). Mendocino County Municipal Court District

SEC. ___. Article 12.3 (commencing with Section 73784) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73784-73785 are repealed to reflect:

(1) Unification of the municipal and superior courts in Mendocino County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 26603 (superior court attendance by sheriff), 68073 (responsibility for court operations and facilities), 69588.7 (number of judges in Mendocino County); Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

Gov't Code §§ 73784-73784.10 (added). Mendocino County

SEC. ___. Article 12.3 (commencing with Section 73784) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 12.3. Mendocino County

§ 73784. Mendocino County Municipal Court District

73784. This article applies to and establishes the Mendocino County Municipal Court District, which shall embrace the entire County of Mendocino, and shall supersede the Anderson, Arena, Long Valley, Round Valley, and Ten Mile Judicial Districts and the Mount San Hedrin Municipal Court District.

Comment. Section 73784 continues former Section 73784 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73784.10. Municipal court facilities

73784.10. The location of permanent court facilities and locations where sessions of the court may be held other than in the county seat shall be as determined by the board of supervisors.

Comment. Section 73784.10 continues former Section 73784.10 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 73790-73802 (repealed). Merced County Municipal Court

SEC. ___. Article 12.5 (commencing with Section 73790) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73790-73802 are repealed to reflect:

(1) Unification of the municipal and superior courts in Merced County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 69589 (number of judges in Merced County), 69916 (Marshal of Merced County Superior Court); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Sections 71042.5 (preservation of judicial districts for purpose of publication), 71265 (marshals' powers, duties, and liabilities).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job classifications), 71615(c)(5) (trial court as employer of all trial court employees), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). For provisions governing the employment and compensation of county employees, see Cal. Const. art. XI, §§ 1(b) and 4 (county governing board shall provide for the number, compensation, tenure, and appointment of employees) and Section 25300 (board of supervisors shall provide for the number,

compensation, tenure and appointment of county employees). See also Section 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 68073 (responsibility for court operations and facilities).

Gov't Code §§ 73790-73792 (added). Merced County

SEC. ___. Article 12.5 (commencing with Section 73790) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 12.5. Merced County

§ 73790. Merced County Municipal Court

73790. There is hereby created a municipal court district which embraces the entire County of Merced. This article applies to the municipal court established within the district, which shall be known as the Merced County Municipal Court.

Comment. Section 73790 continues former Section 73790 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73792. Municipal court facilities

73792. Facilities for the court shall be maintained at or near the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

Comment. Section 73792 continues subdivision (a) of former Section 73792 without change.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 73792 that are not continued, see the Comment to former Article 12.5 (commencing with former Section 73790).

Gov't Code §§ 73820-73828 (repealed). Nevada County Municipal Court

SEC. ___. Article 13 (commencing with Section 73820) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73820-73828 are repealed to reflect:

(1) Unification of the municipal and superior courts in Nevada County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69590.7 (number of judges in Nevada County). *Cf.* former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 73870-73877 (repealed). North Sacramento Municipal Court District

SEC. ___. Article 14 (commencing with Section 73870) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73870-73877 are repealed to reflect:

(1) Unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69593 (number of judges in Sacramento County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Sacramento County, effective January 1, 1986.

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 73950-73960 (repealed). North County Municipal Court District

SEC. ___. Article 16 (commencing with Section 73950) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73950-73960 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69595 (number of judges in San Diego County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*)-(m) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations), 77211 ("900" telephone numbers). See also Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

(4) Elimination of the marshal's office as a result of consolidation with the sheriff's office in San Diego County, effective January 1, 2000.

Gov't Code §§ 73950-73956 (added). North County Judicial District

SEC. ___. Article 16 (commencing with Section 73950) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 16. North County Judicial District

§ 73950. Municipal Court of the North County Judicial District

73950. This article applies to the Municipal Court of the North County Judicial District.

Comment. Section 73950 continues former Section 73950 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73952. Benefits for judges of the North County Judicial District

73952. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired superior court judges under that act.

Comment. Section 73952 continues former Section 73952 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 73956. Sessions within the North County Judicial District

73956. The headquarters of the municipal court and the clerk and marshal of the North County Judicial District shall be located within the City of Vista or such other place as shall be designated by the Board of Supervisors of the County of San Diego. The municipal court shall hold sessions at its headquarters and at a department at a location within the City of Escondido and at such other location or locations within the North County Judicial District as shall be designated by the board of supervisors. The clerk and marshal of the North County Judicial District shall maintain branch offices at a location within the City of Escondido as shall be designated by the board of supervisors. The Escondido branch office shall maintain the same office hours as the headquarters offices and shall provide facilities for complete municipal court services, including the filing of original complaints and other documents and the posting of bail, and the board of supervisors shall provide facilities within the City of Escondido for the complete transaction of business of the court including the holding of jury trials.

Comment. Section 73956 continues former Section 73956 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74010-74014 (repealed). Marshal of Orange County

SEC. ___. Article 17.1 (commencing with Section 74010) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74010-74014 are repealed to reflect elimination of the marshal's office as a result of consolidation with the sheriff's office in Orange County, effective July 1, 2000. See former Section 69915 (Article 17.1 inoperative upon effective date of consolidation).

Gov't Code §§ 74020-74030 (repealed). Placer County Municipal Court

SEC. ___. Article 18 (commencing with Section 74020) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74020-74030 are repealed to reflect:

(1) Unification of the municipal and superior courts in Placer County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 30, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 68073 (responsibility for court operations and facilities), 69591.3 (number of judges in Placer County); Cal. Const. art. VI, § 16 (election of judges); Code Civ. Proc. § 198.5 (superior court venires). *Cf.* former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Section 77001 (local trial court management).

Gov't Code §§ 74130-74145 (repealed). Riverside County municipal court districts

SEC. ___. Article 20 (commencing with Section 74130) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74130-74145 are repealed to reflect:

(1) Unification of the municipal and superior courts in Riverside County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 29, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69592 (number of judges in Riverside County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Riverside County, effective April 19, 1990.

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 74130-74145 (added). Riverside County

SEC. ___. Article 20 (commencing with Section 74130) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 20. Riverside County

§ 74130. Municipal courts

74130. This article applies to the municipal courts established in Riverside County.

Comment. Section 74130 continues former Section 74130 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74145. Benefits for municipal court judges

74145. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the county flexible benefits plan.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive the same long-term disability insurance as provided by the County of Riverside for other elected county officials.

Comment. Section 74145 continues former Section 74145 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74190-74201 (repealed). Sacramento Municipal Court District

SEC. ___. Article 21.5 (commencing with Section 74190) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74190-74201 are repealed to reflect:

(1) Unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69593 (number of judges in Sacramento County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Sacramento County, effective January 1, 1986. See Section 26638.2 (Sections 74194-74195 inoperative upon effective date of consolidation).

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 74205-74212 (repealed). South Sacramento County Municipal Court District

SEC. ___. Article 21.6 (commencing with Section 74205) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74205-74212 are repealed to reflect:

(1) Unification of the municipal and superior courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 17, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69593 (number of judges in Sacramento County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 74340-74353 (repealed). San Diego Municipal Court District

SEC. ___. Article 25 (commencing with Section 74340) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74340-74353 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Section 70211

(former municipal court judgeships continued as superior court judgeships). See also Section 69595 (number of judges in San Diego County); Code Civ. Proc. § 38 (judicial district); Veh. Code § 40508.6 (administrative assessments). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*)-(m) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

(4) Elimination of the marshal's office as a result of consolidation with the sheriff's office in San Diego County, effective January 1, 2000.

Gov't Code §§ 74340-74342 (added). San Diego Judicial District

SEC. ___. Article 25 (commencing with Section 74340) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 25. San Diego Judicial District

§ 74340. San Diego Judicial District

74340. This article applies to the municipal court established in a district embracing that portion of the City of San Diego not included within the South Bay Municipal Court District.

Comment. Section 74340 continues former Section 74340 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74342. Benefits for judges of the San Diego Judicial District

74342. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired superior court judges under that act.

Comment. Section 74342 continues former Section 74342 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74355-74359.2 (repealed). San Diego County Pretrial Services Unit personnel

SEC. ___. Article 25.1 (commencing with Section 74355) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74355-74359.2 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 74500-74521 (repealed). City and County of San Francisco Municipal Court

SEC. ___. Article 26 (commencing with Section 74500) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74500-74521 are repealed to reflect:

(1) Unification of the municipal and superior courts in the City and County of San Francisco pursuant to Article VI, Section 5(e), of the California Constitution, effective December 31, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69596 (number of judges in City and County of San Francisco).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters); Code Civ. Proc. § 195 (jury commissioner).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68086 (fees for reporting services in civil cases generally), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 74600-74613 (repealed). San Luis Obispo County Municipal Court

SEC. ___. Article 27 (commencing with Section 74600) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74600-74613 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Luis Obispo County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 69508 (presiding judge), 69598.5 (number of judges in San Luis Obispo County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment

protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code § 74602 (added). San Luis Obispo County

SEC. ___. Article 27 (commencing with Section 74602) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 27. San Luis Obispo County

§ 74602. Superior court sessions and facilities in San Luis Obispo County

74602. Facilities for the San Luis Obispo County Superior Court shall be maintained in the City of San Luis Obispo, and may be maintained at any other location within the county. The court may hold sessions at each facility, as business requires. At the direction of the presiding judge, any subordinate judicial officer may perform his or her duties at any court location. At the direction of the court, arraignment of criminal defendants who are in custody at the San Luis Obispo County Jail facility shall be held at that facility.

Comment. Section 74602 continues the substance of subdivision (a) of former Section 74602, replacing references to "any traffic referee or juvenile court hearing officer" with a reference to "any subordinate judicial officer."

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 74602 that are not continued, see the Comment to former Article 27 (commencing with former Section 74600).

Gov't Code §§ 74640-74649 (repealed). Santa Barbara County municipal court districts

SEC. ___. Article 28 (commencing with Section 74640) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74640-74649 are repealed to reflect:

(1) Unification of the municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69599.5 (number of judges in Santa Barbara County); Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Santa Barbara County, effective January 1, 1997.

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters), 72190 (court commissioners).

(4) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court Operations Fund).

Gov't Code §§ 74640-74640.2 (added). Santa Barbara County

SEC. ___. Article 28 (commencing with Section 74640) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 28. Santa Barbara County

§ 74640. Municipal court districts

74640. There are in the County of Santa Barbara two municipal court districts, known as the Santa Barbara Municipal Court and the North Santa Barbara County Municipal Court.

Comment. Section 74640 continues former Section 74640 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74640.2. Court facilities for the North Santa Barbara County Municipal Court

74640.2. In order that the citizens residing in each division of the North Santa Barbara County Municipal Court may have convenient access to the court, sufficient court facilities, including staff and other necessary personnel, shall be maintained in each division at the following sites or as otherwise designated by the board of supervisors:

(a) In the Santa Maria Division, in the City of Santa Maria.

(b) In the Lompoc Division, in the City of Lompoc.

(c) In the Solvang Division, in the City of Solvang.

Comment. Section 74640.2 continues former Section 74640.2 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74660-74673 (repealed). Santa Clara County Municipal Court

SEC. ___. Article 28.5 (commencing with Section 74660) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74660-74673 are repealed to reflect:

(1) Unification of the municipal and superior courts in Santa Clara County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 30, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69600 (number of judges in Santa Clara County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 72190 (court commissioners).

(3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68086 (fees for reporting services in

civil cases generally), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 74690-74699 (repealed). Santa Cruz County Municipal Court

SEC. ___. Article 29 (commencing with Section 74690) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74690-74699 are repealed to reflect:

(1) Unification of the municipal and superior courts in Santa Cruz County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69600.5 (number of judges in Santa Cruz County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters), 72190 (court commissioners).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 74700-74711 (repealed). Sonoma County Municipal Court

SEC. ___. Article 29.5 (commencing with Section 74700) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74700-74711 are repealed to reflect:

(1) Unification of the municipal and superior courts in Sonoma County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 12, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Sections 68202-68203 (salary of superior court judge), 69603 (number of judges in Sonoma County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters), 72190 (court commissioners); Code Civ. Proc. § 259 (powers of court commissioners).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 74720-74731 (repealed). Siskiyou County Municipal Court District

SEC. ___. Article 29.6 (commencing with Section 74720) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74720-74731 are repealed to reflect:

(1) Unification of the municipal and superior courts in Siskiyou County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 4, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2)

and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69601.7 (number of judges in Siskiyou County); Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) The fact that the office of deputy marshal no longer exists in Siskiyou County following expiration of the former constables' terms of office.

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

Gov't Code §§ 74720-74724 (added). Siskiyou County

SEC. ___. Article 29.6 (commencing with Section 74720) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 29.6. Siskiyou County

§ 74720. Siskiyou County Municipal Court District

74720. The Siskiyou County Municipal Court District shall supersede the Western, Southeastern, and Dorris/Tulelake Judicial Districts and shall embrace the entire County of Siskiyou.

Comment. Section 74720 continues former Section 74720 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74724. Municipal court facilities

74724. The court shall maintain facilities at Yreka, Dorris, Weed, and other locations determined by the court. The court shall determine the nature and frequency of sessions to be held at additional court locations.

Comment. Section 74724 continues former Section 74724 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74740-74750 (repealed). South Bay Municipal Court District

SEC. ___. Article 30 (commencing with Section 74740) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74740-74750 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69595 (number of judges in San Diego County); Code Civ. Proc. § 38 (judicial district). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*)-(m) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645

(employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations), 77211 ("900" telephone numbers). See also Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 74740-74748 (added). South Bay Judicial District

SEC. ___. Article 30 (commencing with Section 74740) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 30. South Bay Judicial District

§ 74740. South Bay Judicial District

74740. Notwithstanding Section 71040, there shall be a municipal court in a judicial district, embracing the Cities of Chula Vista, Coronado, Imperial Beach, National City, that portion of the City of San Diego lying southerly of the City of Chula Vista and the portion of the City of San Diego lying within San Diego Bay south of a westerly continuation of the northern boundary of National City to the point of intersection with the eastern boundary of the City of Coronado, and such other contiguous area as the board of supervisors may direct, designated the South Bay Judicial District.

This article applies to the municipal court established pursuant to this section.

Comment. Section 74740 continues former Section 74740 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74742. Benefits for judges of the South Bay Judicial District

74742. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in such benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired superior court judges under that act.

Comment. Section 74742 continues former Section 74742 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74748. Sessions within the South Bay Judicial District

74748. The municipal court shall hold sessions in the City of Chula Vista and at such other places as the board of supervisors, by ordinance, may designate.

Comment. Section 74748 continues former Section 74748 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74760-74767 (repealed). Glenn County Municipal Court District

SEC. ___. Article 30.1 (commencing with Section 74760) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74760-74767 are repealed to reflect:

(1) Unification of the municipal and superior courts in Glenn County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 31, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69583.5 (number of judges in Glenn County); Cal. Const. art. VI, § 16 (election of judges).

(2) Elimination of the marshal's office and the transfer of its functions to the sheriff's office, effective August 17, 1999. *Cf.* former Section 74766 (marshal of Glenn County).

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters); Code Civ. Proc. § 195 (jury commissioner).

Gov't Code §§ 74760-74764 (added). Glenn County

SEC. ___. Article 30.1 (commencing with Section 74760) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 30.1. Glenn County

§ 74760. Glenn County Municipal Court District

74760. The Glenn County Municipal Court District shall supersede the Glenn County Judicial District and shall embrace the entire County of Glenn.

Comment. Section 74760 continues former Section 74760 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74764. Municipal court facilities

74764. The court shall maintain facilities at Willows and other locations determined by the court. The court shall determine the nature and frequency of sessions to be held at additional court locations.

Comment. Section 74764 continues former Section 74764 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74780-74792 (repealed). Stanislaus County Municipal Court

SEC. ___. Article 31 (commencing with Section 74780) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74780-74792 are repealed to reflect:

(1) Unification of the municipal and superior courts in Stanislaus County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 31, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69604 (number of judges in Stanislaus County); Code Civ. Proc. §§ 38 (judicial district), 190 *et*

seq. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Stanislaus County, effective March 1, 1992. For provisions relating to the sheriff, see Sections 26603 (superior court attendance), 26608, 26609, 26660-26665 (process and notices), 26611 (court crier), 26720-26751 (fees). See also Code Civ. Proc. § 262.4 (conveyances on sale of real estate).

(3) The fact that provisions relating to the Court Services Bureau and Court Security Services Oversight Committee are obsolete. See Section 77212.5(a) (agreement with sheriff's department regarding court security services).

(4) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters).

(5) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 74784-74785 (added). Stanislaus County

SEC. ___. Article 31 (commencing with Section 74784) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 31. Stanislaus County

§ 74784. Former marshal's office personnel in Stanislaus County

74784. (a) All sworn personnel of the former Stanislaus County marshal's office who are assigned to court services on the date of the elimination of the marshal's office shall become members of the sheriff's Court Services Bureau, with those permanent employees holding the rank of deputy marshal becoming deputy sheriff coroners.

(b) Sworn personnel may be transferred to another position in the sheriff's office at the same or equivalent classification, but shall not be involuntarily transferred out of the Court Services Bureau.

Comment. Subdivision (a) of Section 74784 continues the eleventh paragraph of subdivision (b) of former Section 74784, making clear that the provision applies to sworn personnel of the former Stanislaus County marshal's office.

Subdivision (b) continues the twelfth paragraph of subdivision (b) of former Section 74784 without change.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 74784 that are not continued, see the Comment to former Article 31 (commencing with former Section 74780).

§ 74785. Repeal of article

74785. (a) This article shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Section 74785 is added to provide for the automatic repeal of Article 31 (commencing with Section 74784) in fifteen years.

Gov't Code §§ 74800-74811 (repealed). Stockton Municipal Court District

SEC. ___. Article 32 (commencing with Section 74800) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74800-74811 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69598 (number of judges in San Joaquin County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Elimination of the marshal's office as a result of consolidation with the sheriff's office in San Joaquin County, effective May 27, 1997.

Gov't Code § 74820.1 (repealed). Consolidation of court-related services

SEC. ___. Section 74820.1 of the Government Code is repealed.

~~74820.1. (a) Notwithstanding any other provision of law, the Board of Supervisors of San Joaquin County may determine that it is in the public interest to consolidate court security functions provided by the sheriff and the marshal within that county.~~

~~(b) If that finding is made, there shall be conducted among all of the incumbent judges and commissioners of the superior and municipal courts of that county an election to determine the office, either the marshal's office or sheriff's office, under which those services shall be consolidated. The outcome shall be determined by a simple majority of votes cast, provided that the total number of votes cast exceeds 50 percent of the number of incumbent superior and municipal judges and commissioners in the county, by at least one vote. The registrar of voters shall administer that election and tabulate the results thereof within 15 days after the board of supervisors makes that finding. The results of the election shall be publicly reported within 15 days following the election period by the registrar of voters to the board of supervisors.~~

~~(c) The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the decision made by a majority of the incumbent judges and commissioners of the superior and municipal courts of that county in that election. If the results of the election are evenly divided, the board of supervisors may call additional elections without making additional findings.~~

Comment. Section 74820.1, relating to court-related services in San Joaquin County, is superseded by new Section 74820.1.

Gov't Code § 74820.1 (added). Consolidation of court-related services

SEC. ___. Section 74820.1 is added to the Government Code, to read:

74820.1. This article applies to the abolition of the marshal's office and the consolidation of court security functions and service of process and notice functions in the sheriff's office.

Comment. Section 74820.1 supersedes former Section 74820.1 (consolidation of court related services). It reflects consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.2 (amended). Court services division

SEC. ___. Section 74820.2 of the Government Code is amended to read:

74820.2. There is a court services division within the San Joaquin County Sheriff's Department to provide security within the superior ~~and municipal courts~~ court.

Comment. Section 74820.2 is amended to reflect unification of the municipal and superior courts in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998.

Gov't Code § 74820.3 (amended). Court services division positions and employees

SEC. ___. Section 74820.3 of the Government Code is amended to read:

74820.3. (a) The sheriff shall be the appointing authority for all court services division positions and employees.

(b) ~~The incumbent marshal of San Joaquin County shall become the sheriff's division chief (exempt) of the court services division upon the operative date of this section and may not be removed except by the sheriff with the concurrence of a majority of the incumbent judges and commissioners. His or her salary and benefits shall not be reduced. Upon the vacancy of this initial position, the classification, salary, and benefits shall be reevaluated by the county.~~

~~(c)~~ Selection, appointment, and removal of ~~subsequent~~ chiefs of the court services division shall be made by a majority vote of the incumbent superior court ~~and municipal court~~ judges and commissioners from a list of qualified candidates submitted by a committee comprised of the sheriff~~,~~ and an incumbent judge of the superior court~~, and an incumbent judge of the municipal court selected by the board of supervisors~~.

~~(d) The two incumbent assistant marshals in the marshal's office shall become sheriff's commanders, court services division, in the sheriff's department and shall be assigned to the division of court services upon the operative date of this section. They may not be removed except by the sheriff with the concurrence of the majority of incumbent judges and commissioners. Their salary and benefits shall not be reduced. Upon the first vacancy of one of the two sheriff's commanders, the position shall be eliminated. Upon the second vacancy of the two sheriff's commanders, the classification, salary, and benefits shall by reevaluated by the county.~~

Comment. Subdivision (b) of Section 74820.3 is amended to reflect unification of the municipal and superior courts in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 8, 1998.

Obsolete provisions in former subdivisions (b) and (d) regarding the former incumbent marshal and assistant marshals have been deleted.

Gov't Code § 74820.4 (repealed). Effect of consolidation on personnel

SEC. ___. Section 74820.4 of the Government Code is repealed.

~~74820.4. (a) All personnel of the marshal's office subject to consolidation shall become members of the sheriff's office. Their salary and benefits shall not be reduced. Permanent employees presently holding the rank of deputy or sergeant, respectively, in the marshal's~~

~~office may become deputy sheriffs or sheriff's sergeants upon consolidation if they meet the qualifications for deputy sheriffs or sheriff's sergeants. If they cannot meet the qualifications for deputy sheriffs or sheriff's sergeants or desire to remain in court services, they may become deputy sheriff's sergeants at the nearest equivalent step without step increases or deputy sheriff I's without a loss in pay.~~

~~(b) Deputy sheriffs and sheriff's sergeants may be transferred to other positions in the sheriff's office at the same or equivalent classification. Those who remain sheriff's sergeants at the nearest equivalent step without step increases or deputy sheriff I's may not be involuntarily transferred out of the court services division.~~

~~(c) Permanent employees of the sheriff's office assigned to court services on the operative date of the consolidation and permanent employees of the marshal's office on the operative date of the consolidation shall be deemed qualified for employment and retention in the San Joaquin County Sheriff's Department. Probationary employees of the sheriff's department assigned to court services on the operative date of the consolidation and probationary employees of the marshal's office on the operative date of the consolidation shall retain their probationary status and rights, and shall not be required to start a new probationary period.~~

~~(d) For personnel of the sheriff's office assigned to court services on the operative date of the consolidation and personnel of the marshal's office on the operative date of the consolidation, all county service shall be counted toward county seniority, and all time spent in the same classification, and all time spent in the equivalent or higher classification shall be counted toward classification seniority. All county seniority shall be credited as departmental seniority. For layoff and displacement purposes, all covered service in the sheriff's department and marshal's office shall be counted equally, and the county's personnel management regulations and other governing county ordinances and resolutions shall determine the class, county, and departmental seniority dates, the seniority and layoff order, and the displacement rights of all employees.~~

~~(e) No employee of the sheriff's office assigned to court services on the operative date of the consolidation or employee of the marshal's office on the operative date of the consolidation shall lose peace officer status or be demoted by the consolidation of court services pursuant to this section. Peace Officer Standards and Training certificates held on the operative date of this section by employees of the San Joaquin County Marshal's Department and the San Joaquin County Sheriff's Department shall be considered the same for purposes of this section.~~

Comment. Section 74820.4 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.5 (repealed). Transfers

SEC. ___. Section 74820.5 of the Government Code is repealed.

~~74820.5. Notwithstanding any other provision of this article, the sheriff shall make all transfers within the court services division consistent with existing personnel policies of the sheriff, memoranda of understanding, if any, and other county personnel management, rules, and regulations.~~

Comment. Section 74820.5 is repealed as unnecessary.

Gov't Code § 74820.6 (repealed). Marshal's office abolished

SEC. ___. Section 74820.6 of the Government Code is repealed.

~~74820.6. The marshal's office is abolished.~~

Comment. Section 74820.6 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.7 (repealed). Operation of Gov't Code §§ 74820.2-74820.6

SEC. ___. Section 74820.7 of the Government Code is repealed.

~~74820.7. Sections 74820.2 to 74820.6, inclusive, shall become operative only if the sheriff's office is selected as the office under which court security services shall be consolidated. Under those circumstances, the sections shall become operative upon the vote of the incumbent judges and commissioners of the county so selecting the sheriff.~~

Comment. Section 74820.7 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.8 (repealed). Marshal of the consolidated offices

SEC. ___. Section 74820.8 of the Government Code is repealed.

~~74820.8. The incumbent marshal shall be the marshal of the consolidated offices. The marshal shall be appointed by, and serve at the pleasure of, the majority of the incumbent judges and commissioners of the superior court and all municipal courts in the county. When making that appointment, the incumbent judges and commissioners shall consider, but shall not be bound by, the recommendation of a committee comprised of the presiding judges of the superior court and each municipal court.~~

Comment. Section 74820.8 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.9 (repealed). Salaries, benefits and ratings

SEC. ___. Section 74820.9 of the Government Code is repealed.

~~74820.9. Deputy sheriffs and sheriff's sergeants who become members of the consolidated office shall do so at their existing salaries and benefits, and shall be y-rated in accordance with the County Salary Ordinance. All other staff who become members of the consolidated office shall do so at their existing salaries and benefits.~~

Comment. Section 74820.9 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.10 (repealed). Status of sheriff employees

SEC. ___. Section 74820.10 of the Government Code is repealed.

~~74820.10. Permanent employees of the sheriff's department on the operative date of the consolidation shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the sheriff's department on the operative date of the consolidation shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.~~

Comment. Section 74820.10 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.11 (repealed). Seniority

SEC. ___. Section 74820.11 of the Government Code is repealed.

~~74820.11. All county service or service in the sheriff's department of employees of the sheriff's department on the operative date of the consolidation shall be counted toward seniority in the court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.~~

Comment. Section 74820.11 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.12 (repealed). Peace officer status

SEC. ___. Section 74820.12 of the Government Code is repealed.

~~74820.12. No employee of the sheriff's department on the operative date of the consolidation shall lose peace officer status.~~

Comment. Section 74820.12 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.13 (repealed). Operation of Gov't Code §§ 74820.8-74820.12

SEC. ___. Section 74820.13 of the Government Code is repealed.

~~74820.13. Sections 74820.8 to 74820.12, inclusive, shall become operative only if the marshal is selected as the agency under which court-related services shall be consolidated, in which case those sections shall become operative upon the vote of the incumbent judges and commissioners of the county so selecting the marshal.~~

Comment. Section 74820.13 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code § 74820.14 (repealed). Service of process and notice functions

SEC. ___. Section 74820.14 of the Government Code is repealed.

~~74820.14. Notwithstanding the other provisions of this article, if it finds that it is in the public interest, the board of supervisors may consolidate the service of process and notice functions in either the sheriff's or the marshal's office. If the service of process and notice functions are consolidated, personnel shall be transferred under the provisions of this article that relate to personnel matters.~~

Comment. Section 74820.14 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff's office, effective May 27, 1997.

Gov't Code §§ 74830-74839 (repealed). Sutter County Municipal Court

SEC. ___. Article 32.5 (commencing with Section 74830) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74830-74839 are repealed to reflect:

(1) Unification of the municipal and superior courts in Sutter County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69604.3 (number of judges in Sutter County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

Gov't Code §§ 74840-74851 (repealed). Vallejo-Benicia Judicial District

SEC. ___. Article 33 (commencing with Section 74840) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74840-74851 are repealed to reflect:

(1) Unification of the municipal and superior courts in Solano County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69602 (number of judges in Solano County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in Solano County, effective August 2, 1998. For provisions governing keepers fees, see Sections 26726 (fees for sheriff keeping property under attachment, execution, possession, or sale), 71266 (sheriff fee statutes applicable to marshals), 72112 (deputy marshals serving as custodians).

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters); Code Civ. Proc. § 195 (jury commissioner).

(4) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Gov't Code §§ 74860-74868 (repealed). Tehama County Municipal Court

SEC. ___. Article 34 (commencing with Section 74860) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74860-74868 are repealed to reflect:

(1) Unification of the municipal and superior courts in Tehama County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69604.5 (number of judges in Tehama County). *Cf.* former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 74900-74913 (repealed). Ventura County Municipal Court

SEC. ___. Article 35 (commencing with Section 74900) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74900-74913 are repealed to reflect:

(1) Unification of the municipal and superior courts in Ventura County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 10, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69606 (number of judges in Ventura County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Section 69917 (practice of law by subordinate judicial officers).

(3) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov't Code §§ 74915-74919 (repealed). Yuba County Municipal Court

SEC. ___. Article 35.5 (commencing with Section 74915) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74915-74919 are repealed to reflect:

(1) Unification of the municipal and superior courts in Yuba County pursuant to Article VI, Section 5(e), of the California Constitution, effective April 16, 1999. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 68073 (responsibility for court operations and facilities), 69611 (number of judges in Yuba County); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code §§ 74915-74916 (added). Yuba County

SEC. ___. Article 35.5 (commencing with Section 74915) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 35.5. Yuba County

§ 74915. Yuba County Municipal Court

74915. This article applies to the municipal court established in a judicial district embracing the County of Yuba. This court shall be known as the Yuba County Municipal Court.

Comment. Section 74915 continues former Section 74915 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74916. Municipal court facilities

74916. (a) Facilities for the court shall be maintained at the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

(b) Jurors shall be drawn from the entire county.

Comment. Section 74916 continues former Section 74916 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74920-74926.7 (repealed). Tulare County Municipal Court District

SEC. ___. Article 36 (commencing with Section 74920) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74920-74926.7 are repealed to reflect:

(1) Unification of the municipal and superior courts in Tulare County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 27, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 69508 (presiding judge), 69605 (number of judges in Tulare County); Cal. Const. art.

VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38 (judicial district), 190 *et seq*. (jury selection); Cal. R. Ct. 6.603 (authority and duties of presiding judge). *Cf*. Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 74921.9 (marshals of Tulare County municipal courts).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 68086 (fees for reporting services), 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters), 72190 (court commissioners); Code Civ. Proc. § 195 (jury commissioner); Fam. Code §§ 4250-4253 (child support commissioners).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations).

Gov't Code §§ 74920-74920.6 (added). Tulare County

SEC. ___. Article 36 (commencing with Section 74920) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 36. Tulare County

§ 74920. Tulare County Municipal Court District

74920. There is in the County of Tulare a single municipal court district known as the Tulare County Municipal Court District.

Comment. Section 74920 continues former Section 74920 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74920.5. Sessions of the Tulare-Pixley Division

74920.5. On the order of the board of supervisors, sessions of the Tulare-Pixley Division shall be held within the territory embraced by the Pixley Judicial District as it existed on December 31, 1974.

Comment. Section 74920.5 continues former Section 74920.5 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74920.6. Sessions of the Central Division

74920.6. On order of the board of supervisors, sessions and services of the Central Division shall be held in the City of Woodlake, the City of Lindsay, and the City of Exeter.

Comment. Section 74920.6 continues former Section 74920.6 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74934-74945 (repealed). Butte County municipal court districts

SEC. ___. Article 37 (commencing with Section 74934) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74934-74945 are repealed to reflect:

(1) Unification of the municipal and superior courts in Butte County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also

Sections 68073 (responsibility for court operations and facilities), 69581 (number of judges in Butte County); Cal. Const. art. VI, § 15 (qualifications of judges); Code Civ. Proc. § 38 (judicial district). *Cf.* Sections 71042.5 (preservation of judicial districts for purpose of publication), 71266 (marshals' fees paid into county treasury); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

Gov't Code §§ 74934-74935.5 (added). Butte County

SEC. ___. Article 37 (commencing with Section 74934) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 37. Butte County

§ 74934. Municipal court districts

74934. This article applies only to municipal courts established in the following judicial districts in Butte County:

(a) A district embracing the Cities of Chico and Paradise, designated as the North Butte County Judicial District headquartered in the City of Chico.

(b) A district embracing the Cities of Oroville, Biggs, and Gridley, designated as the South Butte County Judicial District which is hereby created and shall be headquartered in the City of Oroville.

Comment. Section 74934 continues former Section 74934 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74935.5. Branch court facilities

74935.5. There shall be maintained in both the City of Gridley and the Town of Paradise branch court facilities, including staff and other necessary personnel, so that the citizens of those communities may utilize such facilities as needed for small claims, infractions (traffic), civil matters, and misdemeanors.

Comment. Section 74935.5 continues former Section 74935.5 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74948-74958 (repealed). Napa County Municipal Court

SEC. ___. Article 38 (commencing with Section 74948) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74948-74958 are repealed to reflect:

(1) Unification of the municipal and superior courts in Napa County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Sections 69508 (presiding judge), 69590.5 (number of judges in Napa County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters); Fam. Code §§ 4250-4253 (child support commissioners).

(3) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(4) Enactment of the Trial Court Funding Act. See Section 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Section 68073 (responsibility for court operations and facilities). For other provisions governing the deposit of fees collected by marshals and sheriffs, see Sections 24350 (fees collected by salaried county or court officer paid into county treasury), 24353 (money collected by county or court officer paid into county treasury), 71266 (marshals' fees paid into county treasury).

Gov't Code §§ 74948-74950 (added). Napa County

SEC. ___. Article 38 (commencing with Section 74948) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 38. Napa County

§ 74948. Municipal Court for the County of Napa

74948. This article applies to the municipal court district which embraces the entire County of Napa, which court shall be known as the Municipal Court for the County of Napa.

Comment. Section 74948 continues former Section 74948 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74950. Municipal court facilities

74950. Facilities for the court shall be maintained in the City of Napa, the City of Saint Helena, the City of Calistoga, and in such other locations within the County of Napa as are designated by the board of supervisors pursuant to the provisions of Section 71342. The court shall hold sessions at each facility as business requires.

Comment. Section 74950 continues former Section 74950 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74960-74973 (repealed). Yolo County Municipal Court

SEC. ___. Article 39 (commencing with Section 74960) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74960-74973 are repealed to reflect:

(1) Unification of the municipal and superior courts in Yolo County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships); Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations). See also Section 69610 (number of judges in Yolo County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622

(subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

Gov't Code §§ 74960-74962 (added). Yolo County

SEC. ___. Article 39 (commencing with Section 74960) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 39. Yolo County

§ 74960. Yolo County Municipal Court

74960. This article applies to the municipal court established within the municipal court district which embraces the entire territory of the County of Yolo lying within the exterior boundaries of such county, which court shall be known as the Yolo County Municipal Court.

Comment. Section 74960 continues former Section 74960 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

§ 74962. Municipal court facilities

74962. Facilities for the court shall be maintained at or near the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

Comment. Section 74962 continues former Section 74962 without change. For provisions relating to restatements and continuations of existing law, see Section 2.

Gov't Code §§ 74980-74991 (repealed). Shasta County Municipal Court

SEC. ___. Article 40 (commencing with Section 74980) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74980-74991 are repealed to reflect:

(1) Unification of the municipal and superior courts in Shasta County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69601 (number of judges in Shasta County); Code Civ. Proc. § 38 (judicial district). *Cf.* Sections 71042.5 (preservation of judicial districts for purpose of publication), 71265 (marshals' powers, duties, and liabilities).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job classifications), 71615(c)(5) (trial court as employer of all trial court employees), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69917 (practice of law by subordinate judicial officers), 69941 (appointment of official reporters).

The marshal is an appointed employee of the Shasta County Superior Court. Obsolete provisions regarding the former elected marshal have been deleted.

For provisions governing the employment and compensation of county employees, see Cal. Const. art. XI, §§ 1(b) and 4 (county governing board shall provide for the number, compensation, tenure, and appointment of employees) and Section 25300 (board of supervisors shall provide for the number, compensation, tenure and appointment of county employees).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations); Cal. R. Ct. 810 (court operations). *Cf.* Section 71266 (marshals' fees paid into county treasury).

Gov't Code §§ 74984-74988 (added). Shasta County

SEC. ___. Article 40 (commencing with Section 74984) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 40. Shasta County

§ 74984. Marshal of the Shasta County Superior Court

74984. (a) There shall be one marshal who shall be appointed by the Shasta County Superior Court.

(b) The board of supervisors may transfer certain duties of the sheriff to the marshal pursuant to Section 26608.3.

(c) All fees collected by the marshal's office shall be deposited with the county treasurer and credited to the general fund.

Comment. Subdivision (a) of Section 74984 continues the first part of the first sentence of subdivision (a) of former Section 74984, omitting the reference to the municipal court as obsolete.

Subdivision (b) continues subdivision (c) of former Section 74984 without change.

Subdivision (c) continues subdivision (d) of former Section 74984 without change.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 74984 that are not continued, see the Comment to former Article 40 (commencing with former Section 74980).

§ 74985. Benefits for county employees in the Shasta County marshal's office

74985. Each employee of the marshal's office who is a county employee shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

Comment. Section 74985 continues subdivision (b) of former Section 74985, limiting the provision to county employees.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 74985 that are not continued, see the Comment to former Article 40 (commencing with former Section 74980).

§ 74988. Status of marshal and employees of office of the marshal

74988. The marshal and employees of the office of the marshal who provide court security services, except reserve deputy marshals, are employees of the Shasta County Superior Court for all purposes.

Comment. Section 74988 continues the first sentence of former Section 74988, changing the status of the marshal and certain employees of the office of the marshal from county to superior court employees.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 74988 that are not continued, see the Comment to former Article 40 (commencing with former Section 74980).

Gov't Code §§ 74993-74997 (repealed). Tuolumne County Municipal Court District

SEC. ___. Article 41 (commencing with Section 74993) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74993-74997 are repealed to reflect:

(1) Unification of the municipal and superior courts in Tuolumne County pursuant to Article VI, Section 5(e), of the California Constitution, effective April 23, 1999. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69605.5 (number of judges in Tuolumne County); Code Civ. Proc. § 38 (judicial district). *Cf.* Section 71042.5 (preservation of judicial districts for purpose of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

Gov't Code § 75076.2 (amended). Part-time service

SEC. ___. Section 75076.2 of the Government Code is amended to read:

75076.2. A judge who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance. The reduction shall be based upon the relationship between the actual service rendered by the judge, including service rendered by reason of sitting on assignment, and a full-time judge's service during the period from January 1, 1990, until the date of retirement. Computations under this section and subdivision (a) of Section 75076 shall consider the salary payable to the judge of a municipal or justice court to be equal to ~~that of a municipal~~ 91.3225 percent of the salary of a superior court judge. For purposes of qualifying for retirement, part-time service shall be the equivalent of full-time service.

Comment. Section 75076.2 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. This change anticipates that municipal court judge salaries will not be maintained after abolition of the municipal courts through unification. A municipal court judge's salary is approximately 91.3225 percent of a superior court judge's salary. See former subdivision (b) of Section 68202 (1984 Cal. Stat. ch. 1758, § 3); see also Section 68203.

Gov't Code § 75095.5 (repealed). Election under specified circumstances

SEC. ___. Section 75095.5 of the Government Code is repealed.

~~75095.5. Any election of any judge who became a municipal court judge on May 23, 1980, and died on September 18, 1983, to come within the provisions of this article, which was filed with the Secretary of State on September 22, 1983, shall become effective on the date filed.~~

~~The surviving spouse of the person so electing who was previously eligible to come within this article and did not do so, shall pay all of the contributions he would have made pursuant to Section 75097 had he been covered by this article as soon as eligible therefor.~~

Comment. Section 75095.5 is repealed as obsolete.

Gov't Code § 75103 (amended). Deduction for Judges' Retirement Fund

SEC. ___. Section 75103 of the Government Code is amended to read:

75103. Except as provided in Section 75103.3, the auditor of each county shall deduct 8 percent from the portion paid by a county of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior ~~and municipal~~ court and cause this amount to be paid into the Judges' Retirement Fund.

Comment. Section 75103 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 75602 (amended). Deduction for Judges' Retirement System II Fund

SEC. ___. Section 75602 of the Government Code is amended to read:

75602. Except as provided in Section 75605, the Controller or the auditor of each county shall deduct 8 percent from the portion paid by a county, or the Controller and the auditor, if appropriate, of the monthly salary, not including the additional compensation pursuant to Section 68203.1, of each judge of the superior ~~and municipal~~ court and cause this amount to be paid into the Judges' Retirement System II Fund.

Comment. Section 75602 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 76200 (amended). Alameda County courthouse construction fund

SEC. ___. Section 76200 of the Government Code is amended to read:

76200. Alameda County is authorized to establish a Courthouse Construction Fund pursuant to Section 76100 so long as the county maintains ~~the Berkeley-Albany Municipal Court~~ a courtroom building in the City of Berkeley. In the event that the ~~Berkeley-Albany Municipal Court~~ courtroom building in the City of Berkeley is closed, Alameda County may not collect those funds.

Comment. Section 76200 is amended to reflect unification of the municipal and superior courts in Alameda County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 31, 1998. See Cal. Const. art. VI, § 23(c)(2) and Section 70212(b) (preexisting court locations retained as superior court locations).

Gov't Code § 76238 (amended). City and County of San Francisco courthouse construction fund

SEC. ___. Section 76238 of the Government Code is amended to read:

76238. (a) Notwithstanding any other law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco may require the amounts collected pursuant to subdivision (d) to be deposited in the Courthouse Construction Fund established pursuant to Section 76100. In the City and County of San Francisco, the moneys of the Courthouse Construction Fund together with any interest earned thereon shall be payable only for the foregoing purposes and at the time necessary therefor, and for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the Courthouse Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired,

constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings if that excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as the excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) In the City and County of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to any filing fee ~~in any civil action in either the municipal court or~~ in any civil or probate action in the superior court. The surcharge shall be in an amount, not to exceed fifty dollars ($50), and shall be collected in a manner as set forth in a resolution adopted by the Board of Supervisors of the City and County of San Francisco.

Comment. Subdivision (d) of Section 76238 is amended to reflect unification of the municipal and superior courts in the City and County of San Francisco pursuant to Article VI, Section 5(e), of the California Constitution, effective December 31, 1998.

Gov't Code § 76245 (amended). Shasta County courthouse and criminal justice facilities construction funds

SEC. ___. Section 76245 of the Government Code is amended to read:

76245. (a) The fund established in Shasta County pursuant to Section ~~76200~~ 76100 shall be known as the Statham Courthouse Construction Fund.

(b) The fund established in Shasta County pursuant to Section 76101 shall be known as the Statham Criminal Justice Facilities Construction Fund.

Comment. Section 76245 is amended to correct an erroneous section reference.

Gov't Code § 77003 (amended). "Court operations" defined

SEC. ___. Section 77003 of the Government Code is amended to read:

77003. (a) As used in this chapter, "court operations" means all of the following:

(1) Salaries, benefits, and public agency retirement contributions for superior ~~and municipal~~ court judges and for subordinate judicial officers. For purposes of this paragraph, "subordinate judicial officers" includes all commissioner or referee positions created prior to July 1, 1997, including positions created in the municipal court prior to July 1, 1997, which thereafter became positions in the superior court as a result of unification of the municipal and superior courts in a county, and including those commissioner positions created pursuant to former Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794, 74841.5, and 74908; and includes any staff who provide direct support to commissioners; but does not include commissioners or staff who provide direct support to the commissioners whose positions were created after July 1, 1997, unless approved by the Judicial Council, subject to availability of funding.

(2) The salary, benefits, and public agency retirement contributions for other court staff ~~including all municipal court staff positions specifically prescribed by statute~~.

(3) Those marshals and sheriffs as the court deems necessary for court operations.

(4) Court-appointed counsel in juvenile court dependency proceedings and counsel appointed by the court to represent a minor pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family Code.

(5) Services and supplies relating to court operations.

(6) Collective bargaining under Sections 71630 and 71639.3 with respect to court employees.

(7) Subject to paragraph (1) of subdivision (d) of Section 77212, actual indirect costs for county and city and county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(8) Except as provided in subdivision (b), other matters listed as court operations in Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) However, "court operations" does not include collection enhancements as defined in Rule 810 of the California Rules of Court as it read on July 1, 1996.

Comment. Subdivision (a) of Section 77003 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Subdivision (a) is also amended to reflect the repeal of Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794, 74841.5, and 74908.

Gov't Code § 77007 (amended). "Trial court" defined

SEC. ___. Section 77007 of the Government Code is amended to read:

77007. As used in this chapter, "trial court" means a superior ~~or municipal~~ court.

Comment. Section 77007 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 77008 (amended). Filing fees defined

SEC. ___. Section 77008 of the Government Code is amended to read:

77008. As used in this chapter, "filing fees" means any and all fees and charges, liberally construed, collected or collectible for filing, processing, including service of process, copying, endorsing, or for any other service related to court operations as defined in Section 77003. ~~However, with respect to a county with a population of 350,000 or less as determined by the Department of Finance, "filing fees" do not include any fees collected for probation services, indigent criminal defense, or pretrial release services.~~

Comment. Section 77008 is amended to reflect the fact that probation services, indigent criminal defense, and pretrial release services are excluded from the definition of "court operations" for all counties pursuant to Section 77003(a)(7). For purposes of the application of this section, it should be noted that the only section in this chapter in which the term "filing fees" is used is Section 77206.

Gov't Code § 82011 (amended). "Code reviewing body" defined

SEC. ___. Section 82011 of the Government Code is amended to read:

80211. "Code reviewing body" means all of the following:

(a) The commission, with respect to the conflict-of-interest code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.

(b) The board of supervisors, with respect to the conflict-of-interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

(c) The city council, with respect to the conflict-of-interest code of any city agency other than the city council.

(d) The Attorney General, with respect to the conflict-of-interest code of the commission.

(e) The Chief Justice or his or her designee, with respect to the conflict-of- interest code of the members of the Judicial Council, Commission on Judicial Performance, and Board of Governors of the State Bar of California.

(f) The Board of Governors of the State Bar of California with respect to the conflict-of-interest code of the State Bar of California.

(g) The Chief Justice of California, the administrative presiding judges of the courts of appeal, and the presiding judges of superior ~~and municipal~~ courts, or their designees, with respect to the conflict-of-interest code of any agency of the judicial branch of government subject to the immediate administrative supervision of that court.

(h) The Judicial Council of California, with respect to the conflict-of-interest code of any state agency within the judicial branch of government not included under subdivisions (e), (f), and (g).

Comment. Subdivision (g) of Section 82011 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 84215 (amended). Filing of campaign statements

SEC. ___. Section 84215 of the Government Code is amended to read:

84215. All candidates, elected officers, committees, and proponents of state ballot measures or the qualification of state ballot measures, except as provided in subdivision (e), shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers and candidates for these offices other than the Board of Equalization, supreme court justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, supreme court justices, or statewide measures, or the qualification of state ballot measures, and all state general purpose committees and filers not specified in subdivisions (b) to (e), inclusive:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the Registrar-Recorder of Los Angeles County.

(3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees, and committees formed or existing primarily to support or oppose these candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the clerk of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts, or appellate court districts that contain parts of two or more counties, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the clerk of the county with the largest number of registered voters in the jurisdiction.

(d) County elected officers, ~~municipal court judges,~~ candidates for these offices, their controlled committees, committees formed or existing primarily to support or oppose

candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (e), and county general purpose committees shall file the original and one copy with the clerk of the county.

(e) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city. These elected officers, candidates, and committees need not file with the clerk of the county in which they are domiciled.

(f) Notwithstanding the above, a committee, candidate, or elected officer is not required to file more than the original and one copy, or two copies, of a campaign statement with any one county or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (d) and (e), it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

Comment. Subdivision (d) of Section 84215 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 91013.5 (amended). Civil action

SEC. ___. Section 91013.5 of the Government Code is amended to read:

91013.5. In addition to any other available remedies, the commission or the filing officer may bring a civil action and obtain a judgment in ~~small claims, municipal, or~~ superior court~~, depending on the jurisdictional amount~~, for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The action may be filed as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer. In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(a) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations.

(b) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

(c) That a demand for payment has been made by the commission or the filing officer and full payment has not been received.

Comment. Section 91013.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For small claims jurisdiction, see Code Civ. Proc. § 116.220. For limited civil cases, see Code Civ. Proc. § 85. For unlimited civil cases, see Code Civ. Proc. § 88.

HARBORS AND NAVIGATION CODE

Harb. & Nav. Code § 515 (amended). Bond requirement

SEC. ___. Section 515 of the Harbors and Navigation Code is amended to read:

515. Before making the order, the judge shall require from the claimant a bond to the people to be approved by the judge and filed with the ~~county~~ clerk of the court, in a penalty double the value of the property or proceeds. The bond shall be conditioned upon the payment of all damages that may be recovered against the claimant or the claimant's

representatives, within three years after its date, by any person establishing title to the property or proceeds.

Comment. Section 515 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

HEALTH AND SAFETY CODE

Health & Safety Code § 1428 (amended). Contest of citation or civil penalty

SEC. ___. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If the licensee desires to contest a citation or the proposed assessment of a civil penalty therefor, the licensee shall use the processes described in subdivisions (b) and (c) for classes "AA," "A," or "B" citations. As a result of a citation review conference, a citation or the proposed assessment of a civil penalty may be affirmed, modified, or dismissed by the director or the director's designee. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within 15 business days after he or she receives the decision by the director's designee.

(b) If a licensee notifies the director that he or she intends to contest a class "AA" or a class "A" citation, the licensee may first, within 15 business days after service of the citation, notify the director in writing of his or her request for a citation review conference. The licensee shall inform the director in writing, within 15 business days of the service of the citation or the receipt of the decision of the director's designee after the citation review conference, of the licensee's intent to adjudicate the validity of the citation in the ~~municipal or~~ superior court in the county in which the long-term health care facility is located. In order to perfect a judicial appeal of a contested citation, a licensee shall file a civil action in the ~~municipal or~~ superior court in the county in which the long-term health care facility is located. The action shall be filed no later than 90 calendar days after a licensee notifies the director that he or she intends to contest the citation, or no later than 90 days after the receipt of the decision by the director's designee after the citation review conference, and served not later than 90 days after filing. Notwithstanding any other provision of law, a licensee prosecuting a judicial appeal shall file and serve an at-issue memorandum pursuant to Rule 209 of the California Rules of Court within six months after the state department files its answer in the appeal. Notwithstanding subdivision (d), the court shall dismiss the appeal upon motion of the state department if the at-issue memorandum is not filed by the facility within the period specified. The court may affirm, modify, or dismiss the citation, the level of the citation, or the amount of the proposed assessment of the civil penalty.

(c) If a licensee desires to contest a class "B" citation, the licensee may request, within 15 business days after service of the citation, a citation review conference, by writing the director or the director's designee of the licensee's intent to appeal the citation through the citation review conference. If the licensee wishes to appeal the citation which has

been upheld in a citation review conference, the licensee shall, within 15 working days from the date the citation review conference decision was rendered, notify the director or the director's designee that he or she wishes to appeal the decision through the procedures set forth in Section 100171 or elects to submit the matter to binding arbitration in accordance with subdivision (d). The administrative law judge may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. The licensee may choose to have his or her appeal heard by the administrative law judge or submit the matter to binding arbitration without having first appealed the decision to a citation review conference by notifying the director in writing within 15 business days of the service of the citation.

(d) If a licensee is dissatisfied with the decision of the administrative law judge, the licensee may, in lieu of seeking judicial review of the decision as provided in Section 1094.5 of the Code of Civil Procedure, elect to submit the matter to binding arbitration by filing, within 60 days of its receipt of the decision, a request for arbitration with the American Arbitration Association. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the election to arbitrate, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. Except as otherwise specifically provided in this subdivision, the arbitration hearing shall be conducted in accordance with the American Arbitration Association's established rules and procedures. The arbitrator shall determine whether the licensee violated the regulation or regulations cited by the department, and whether the citation meets the criteria established in Sections 1423 and 1424. If the arbitrator determines that the licensee has violated the regulation or regulations cited by the department, and that the class of the citation should be upheld, the proposed assessment of a civil penalty shall be affirmed, subject to the limitations established in Section 1424. The licensee and the department shall each bear its respective portion of the cost of arbitration. A resident, or his or her designated representative, or both, entitled to participate in the citation review conference pursuant to subdivision (f), may make an oral or written statement regarding the citation, at any arbitration hearing to which the matter has been submitted after the citation review conference.

(e) If an appeal is prosecuted under this section, including an appeal taken in accordance with Section 100171, the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation, or the proposed assessment of a civil penalty therefor, or the decision made by the director's designee, after a citation review conference, within the time specified in this section, the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review, except that the licensee may seek judicial relief from the time limits specified in this section. If a licensee appeals a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department.

(f) The director or the director's designee shall establish an independent unit of trained citation review conference hearing officers within the state department to conduct citation

review conferences. Citation review conference hearing officers shall be directly responsible to the deputy director for licensing and certification, and shall not be concurrently employed as supervisors, district administrators, or regional administrators with the licensing and certification division. Specific training shall be provided to members of this unit on conducting an informal conference, with emphasis on the regulatory and legal aspects of long-term health care.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference:

(1) The complainant and his or her designated representative.

(2) A personal health care provider, designated by the resident.

(3) A personal attorney.

(4) Any person representing the Office of the State Long-Term Care Ombudsman, as referred to in subdivision (d) of Section 9701 of the Welfare and Institutions Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name specific residents, any person representing the Office of the State Long-Term Care Ombudsman, as referred to in subdivision (d) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents or family council shall designate which representative will participate.

The complainant, affected resident, and their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

(g) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to, all of the following:

(1) The probability and severity of the risk which the violation presents to the patient's or resident's mental and physical condition.

(2) The patient's or resident's medical condition.

(3) The patient's or resident's mental condition and his or her history of mental disability.

(4) The good faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(h) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class "A" or class "B" violation shall be trebled and collected for a second and subsequent violation for which a citation of the same class was issued within any 12-month period. Trebling shall occur only if the first citation issued within the 12-month period was issued in the same class, a civil penalty was assessed, and a plan of correction was submitted for the previous same-class violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until the previous action has terminated in favor of the state department.

If the class "B" citation is issued for a patient's rights violation, as defined in subdivision (c) of Section 1424, it shall not be trebled unless the state department

determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

(i) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to safety or health.

(j) Actions brought under this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing the proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(k) If the citation is dismissed, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed.

(*l*) Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this chapter. Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this requirement, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients or residents of the facility.

(m) The amendments made to subdivisions (a) and (c) of this section by Chapter 84 of the Statutes of 1988, to extend the number of days allowed for the provision of notification to the director, do not affect the right, that is also contained in those amendments, to request judicial relief from these time limits.

Comment. Subdivision (b) of Section 1428 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For the jurisdictional classification of an action pursuant to this section, see Code Civ. Proc. § 86.1.

Health & Safety Code § 1543 (amended). Prosecution of misdemeanors by district attorney or city attorney

SEC. ___. Section 1543 of the Health and Safety Code is amended to read:

1543. Notwithstanding any other provision of this chapter, the district attorney of every county, and city attorneys in those cities which have city attorneys who have jurisdiction to prosecute misdemeanors pursuant to ~~Sections 71099 and~~ Section 72193 of the Government Code, shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation within his or her county of any provisions of this chapter.

Comment. Section 1543 is amended to reflect the repeal of Government Code Section 71099, concerning prosecution of misdemeanor cases where a court is superseded by a municipal court.

Health & Safety Code § 1568.0823 (amended). Violation of chapter

SEC. ___. Section 1568.0823 of the Health and Safety Code is amended to read:

1568.0823. (a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation adopted under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a period not to exceed 180 days, or by both fine and imprisonment.

(b) Operation of a residential care facility without a license shall be subject to a summons to appear in court.

(c) Notwithstanding any other provision of this chapter, the district attorney of every county, and the city attorneys in those cities which have city attorneys who have jurisdiction to prosecute misdemeanors pursuant to ~~Sections 71099 and~~ Section 72193 of the Government Code, shall, upon their own initiative or upon application by the department or its authorized representative, institute and conduct the prosecution of any action for violation within his or her county of this chapter.

Comment. Subdivision (c) of Section 1568.0823 is amended to reflect the repeal of Government Code Section 71099, concerning prosecution of misdemeanor cases where a court is superseded by a municipal court.

Health & Safety Code § 1569.43 (amended). Prosecution of actions for violations

SEC. ___. Section 1569.43 of the Health and Safety Code is amended to read:

1569.43. Notwithstanding any other provisions of this chapter, the district attorney of every county, and city attorneys in those cities which have city attorneys which prosecute misdemeanors pursuant to ~~Sections 71099 and~~ Section 72193 of the Government Code, shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation of this chapter within his or her jurisdiction.

Comment. Section 1569.43 is amended to reflect the repeal of Government Code Section 71099, concerning prosecution of misdemeanor cases where a court is superseded by a municipal court.

Health & Safety Code § 102247 (amended). Health statistics special fund

SEC. ___. Section 102247 of the Health and Safety Code is amended to read:

102247. (a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues including, but not limited to, all of the following:

(1) Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section ~~26800~~ 26801) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600), of Part 1, of Division 102.

(2) Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

(3) Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

(4) Any other funds collected by the State Registrar, except Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code, fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, and fees collected pursuant to Section 103645, all of which shall be deposited into the General Fund.

(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.

(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

(1) Registration and preservation of vital event records and dissemination of vital event information to the public.

(2) Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.

(3) Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

Comment. Subdivision (a)(1) of Section 102247 is amended to correct the reference to former Government Code Section 26800.

Health & Safety Code § 103625 (amended). Certified copies

SEC. ___. Section 103625 of the Health and Safety Code is amended to read:

103625. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b)(1) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven-dollar ($7) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars ($3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

~~(3) The board of supervisors of any county may increase the fee for a certified copy of a birth certificate by up to three dollars ($3) through June 30, 1999, or until any earlier date upon which the board of supervisors finds that the fee is no longer necessary for dependency mediation funding, the proceeds of which shall be used solely for the purpose of providing dependency mediation services in the juvenile court. Public agencies shall be exempt from paying this portion of the fee. However, if a county increases this fee, neither the revenue generated from the fee increase nor the increased expenditures made for these services shall be considered in determining the court's progress towards achieving its cost reduction goals pursuant to Section 68113 of the Government Code if the net effect of the revenue and expenditures is a cost increase. In each county that increases the fee pursuant to this paragraph, up to 5 percent of the revenue generated from the fee increase may be apportioned to the county recorder for the additional accounting costs of the program.~~

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars ($3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.

(*l*) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section 114.

(m) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

Comment. Section 103625 is amended to delete subdivision (b)(3) as obsolete. The period during which a board of supervisors was authorized to increase the fee for a certified copy of a birth certificate has elapsed.

INSURANCE CODE

Ins. Code § 11706 (amended). Filing copy of award

SEC. ___. Section 11706 of the Insurance Code is amended to read:

11706. Such party may file a certified copy of any such award in the office of any ~~county~~ clerk <u>of a superior court</u> of this State. Upon the filing of such copy the clerk shall immediately enter a judgment thereon against the surety.

Comment. Section 11706 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

LABOR CODE

Lab. Code § 98 (amended). Investigation of employee complaints

SEC. ___. Section 98 of the Labor Code is amended to read:

98. (a) The Labor Commissioner shall have the authority to investigate employee complaints. The Labor Commissioner may provide for a hearing in any action to recover wages, penalties, and other demands for compensation properly before the division or the Labor Commissioner including orders of the Industrial Welfare Commission, and shall determine all matters arising under his or her jurisdiction. It shall be within the jurisdiction of the Labor Commissioner to accept and determine claims from holders of payroll checks or payroll drafts returned unpaid because of insufficient funds, if, after a diligent search, the holder is unable to return the dishonored check or draft to the payee and recover the sums paid out. Within 30 days of filing of the complaint, the Labor Commissioner shall notify the parties as to whether a hearing will be held, or whether action will be taken in accordance with Section 98.3, or whether no further action will be taken on the complaint. If the determination is made by the Labor Commissioner to hold a hearing, the hearing shall be held within 90 days of the date of that determination. However, the Labor Commissioner may postpone or grant additional time before setting a hearing if the Labor Commissioner finds that it would lead to an equitable and just resolution of the dispute.

It is the intent of the Legislature that hearings held pursuant to this section be conducted in an informal setting preserving the right of the parties.

(b) When a hearing is set, a copy of the complaint, which shall include the amount of compensation requested, together with a notice of time and place of the hearing, shall be served on all parties, personally or by certified mail.

(c) Within 10 days after service of the notice and the complaint, a defendant may file an answer with the Labor Commissioner in any form as the Labor Commissioner may prescribe, setting forth the particulars in which the complaint is inaccurate or incomplete and the facts upon which the defendant intends to rely.

(d) No pleading other than the complaint and answer of the defendant or defendants shall be required. Both shall be in writing and shall conform to the form and the rules of practice and procedure adopted by the Labor Commissioner.

(e) Evidence on matters not pleaded in the answer shall be allowed only on terms and conditions the Labor Commissioner shall impose. In all these cases, the claimant shall be entitled to a continuance for purposes of review of the new evidence.

(f) If the defendant fails to appear or answer within the time allowed under this chapter, no default shall be taken against him or her, but the Labor Commissioner shall hear the evidence offered and shall issue an order, decision, or award in accordance with the evidence. A defendant failing to appear or answer, or subsequently contending to be aggrieved in any manner by want of notice of the pendency of the proceedings, may apply to the Labor Commissioner for relief in accordance with Section 473 of the Code of Civil Procedure. The Labor Commissioner may afford this relief. No right to relief, including the claim that the findings or award of the Labor Commissioner or judgment entered thereon are void upon their face, shall accrue to the defendant in any court unless prior application is made to the Labor Commissioner in accordance with this chapter.

(g) All hearings conducted pursuant to this chapter are governed by the division and by the rules of practice and procedure adopted by the Labor Commissioner.

(h) Whenever a claim is filed under this chapter against a person operating or doing business under a fictitious business name, as defined in Section 17900 of the Business and Professions Code, which relates to the person's business, the division shall inquire at the time of the hearing whether the name of the person is the legal name under which the business or person has been licensed, registered, incorporated, or otherwise authorized to do business.

The division may amend an order, decision, or award to conform to the legal name of the business or the person who is the defendant to a wage claim, provided it can be shown that proper service was made on the defendant or his or her agent, unless a judgment had been entered on the order, decision, or award pursuant to subdivision (d) of Section 98.2. The Labor Commissioner may apply to the clerk of the ~~municipal or~~ superior court to amend a judgment that has been issued pursuant to a final order, decision, or award to conform to the legal name of the defendant, provided it can be shown that proper service was made on the defendant or his or her agent.

Comment. Subdivision (h) of Section 98 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. On unification of the municipal and superior courts in a county, preexisting records of the municipal court automatically become records of the superior court. Cal. Const. art. VI, § 23(c)(3); Gov't Code § 70212(c).

Lab. Code § 98.1 (amended). Order, decision or award

SEC. ___. Section 98.1 of the Labor Code is amended to read:

98.1. (a) Within 15 days after the hearing is concluded, the Labor Commissioner shall file in the office of the division a copy of the order, decision, or award. The order,

decision, or award shall include a summary of the hearing and the reasons for the decision. Upon filing of the order, decision, or award, the Labor Commissioner shall serve a copy of the decision personally or by first-class mail on the parties. The notice shall also advise the parties of their right to appeal the decision or award and further advise the parties that failure to do so within the period prescribed by this chapter shall result in the decision or award becoming final and enforceable as a judgment by the ~~appropriate municipal or~~ superior court~~, in accordance with the appropriate rules of jurisdiction~~.

(b) For the purpose of this section, an award shall include any sums found owing, damages proved, and any penalties awarded pursuant to this code.

(c) All awards granted pursuant to a hearing under this chapter shall accrue interest on all due and unpaid wages at the same rate as prescribed by subdivision (b) of Section 3289 of the Civil Code. The interest shall accrue until the wages are paid from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2.

Comment. Subdivision (a) of Section 98.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Lab. Code § 98.2 (amended). Review

SEC. ___. Section 98.2 of the Labor Code is amended to read:

98.2. (a) Within 10 days after service of notice of an order, decision, or award the parties may seek review by filing an appeal to the ~~municipal or~~ superior court, ~~in accordance with the appropriate rules of jurisdiction,~~ where the appeal shall be heard de novo. A copy of the appeal request shall be served upon the Labor Commissioner by the appellant. For purposes of computing the 10-day period after service, Section 1013 of the Code of Civil Procedure shall be applicable.

(b) Whenever an employer files an appeal pursuant to this section, the employer shall post an undertaking with the reviewing court in the amount of the order, decision, or award. The undertaking shall consist of an appeal bond issued by a licensed surety or a cash deposit with the court in the amount of the order, decision, or award. The employer shall provide written notification to the other parties and the Labor Commissioner of the posting of the undertaking. The undertaking shall be on the condition that, if any judgment is entered in favor of the employee, the employer shall pay the amount owed pursuant to the judgment, and if the appeal is withdrawn or dismissed without entry of judgment, the employer shall pay the amount owed pursuant to the order, decision, or award of the Labor Commissioner unless the parties have executed a settlement agreement for payment of some other amount, in which case the employer shall pay the amount that the employer is obligated to pay under the terms of the settlement agreement. If the employer fails to pay the amount owed within 10 days of entry of the judgment, dismissal, or withdrawal of the appeal, or the execution of a settlement agreement, a portion of the undertaking equal to the amount owed, or the entire undertaking if the amount owed exceeds the undertaking, shall be forfeited to the employee.

(c) If the party seeking review by filing an appeal to the ~~municipal or~~ superior court is unsuccessful in the appeal, the court shall determine the costs and reasonable attorney's fees incurred by the other parties to the appeal, and assess that amount as a cost upon the party filing the appeal.

(d) If no notice of appeal of the order, decision, or award is filed within the period set forth in subdivision (a), the order, decision, or award shall, in the absence of fraud, be deemed the final order.

(e) The Labor Commissioner shall file, within 10 days of the order becoming final pursuant to subdivision (d), a certified copy of the final order with the clerk of the ~~municipal or~~ superior court~~, in accordance with the appropriate rules of jurisdiction,~~ of the appropriate county unless a settlement has been reached by the parties and approved by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered shall have the same force and effect as, and shall be subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. Enforcement of the judgment shall receive court priority.

(f) In order to ensure that judgments are satisfied, the Labor Commissioner may serve upon the judgment debtor, personally or by first-class mail at the last known address of the judgment debtor listed with the division, a form similar to, and requiring the reporting of the same information as, the form approved or adopted by the Judicial Council for purposes of subdivision (a) of Section 116.830 of the Code of Civil Procedure to assist in identifying the nature and location of any assets of the judgment debtor.

The judgment debtor shall complete the form and cause it to be delivered to the division at the address listed on the form within 35 days after the form has been served on the judgment debtor, unless the judgment has been satisfied. In case of willful failure by the judgment debtor to comply with this subdivision, the division or the judgment creditor may request the court to apply the sanctions provided in Section 708.170 of the Code of Civil Procedure.

(g) Notwithstanding subdivision (e), the Labor Commissioner may stay execution of any judgment entered upon an order, decision, or award that has become final upon good cause appearing therefor and may impose the terms and conditions of the stay of execution. A certified copy of the stay of execution shall be filed with the clerk entering the judgment.

(h) When a judgment is satisfied in fact, otherwise than by execution, the Labor Commissioner may, upon the motion of either party or on its own motion, order entry of satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment upon the filing of a certified copy of the order.

(i) The Labor Commissioner shall make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action and requiring the employer to deposit a bond as provided in Section 240.

(j) The judgment creditor, or the Labor Commissioner as assignee of the judgment creditor, shall be entitled to court costs and reasonable attorney fees for enforcing the judgment that is rendered pursuant to this section.

Comment. Subdivisions (a), (c), and (e) of Section 98.2 are amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Where a dispute is tried de novo pursuant to this provision, a further appeal may be taken from the court's decision. Post v. Palo/Haklar & Associates, 23 Cal. 4th 942, 948, 4 P.3d 928, 98 Cal. Rptr. 2d 671 (2000). Before unification, the proper forum for resolution of this second appeal depended on which court conducted the trial de novo. *Id*. If the trial de novo was held in municipal court, appeal would be to the appellate division of the superior court. If the trial de novo was held in superior court, appeal would be to the court of appeal.

Due to unification, all trials de novo pursuant to this section are now in superior court. Under subdivision (a), the jurisdictional classification of a trial de novo (whether the proceeding is a limited civil case or an unlimited civil case) is determined pursuant to Code of Civil Procedure Section 85 (limited civil cases). See also Code Civ. Proc. § 86(a) (case at law in which demand is $25,000 or less is limited civil case). If a further appeal is taken, the proper appeal path depends

on the jurisdictional classification of the trial de novo. See Code Civ. Proc. §§ 32.5 (jurisdictional classification), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case).

Lab. Code § 1181 (amended). Public notice

SEC. ___. Section 1181 of the Labor Code is amended to read:

1181. Upon the fixing of the time and place for the holding of a hearing for the purpose of considering and acting upon the proposed regulations or any matters referred to in Sections 1176 to 1180, inclusive, the commission shall:

(a) Give public notice thereof by advertisement in at least one newspaper published in each of the cities of Los Angeles, Oakland, Sacramento, San Jose, Fresno, Eureka, San Diego, Long Beach, Alameda, Berkeley, Stockton, San Bernardino, and San Francisco.

(b) Mail a copy of the notice and the proposed regulations to the ~~county~~ clerk <u>of the superior court</u> of each county in the state to be posted at the courthouse; to each association of employers or employees which, in the opinion of the commission, would be affected by the hearing; and to any person or organization within this state filing with the commission a written request for notice of such hearing. Failure to mail such notice shall not invalidate any order of the commission issued after such hearing.

The notice shall also state the time and place fixed for the hearing, which shall not be less than 30 days from the date of publication and mailing of such notices.

Comment. Subdivision (b) of Section 1181 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Lab. Code § 1701.10 (amended). Bond or deposit

SEC. ___. Section 1701.10 of the Labor Code is amended to read:

1701.10. (a) Prior to engaging in the business or acting in the capacity of an advance-fee talent service, a person shall file with the Labor Commissioner a bond in the amount of ten thousand dollars ($10,000) or a deposit in lieu of the bond pursuant to Section 995.710 of the Code of Civil Procedure. The bond shall be executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to ten thousand dollars ($10,000). The bond may be terminated pursuant to Section 995.440 of, or Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide the services of the advance-fee talent service while acting within the scope of that employment or agency.

(c) The Labor Commissioner shall charge and collect a filing fee to cover the cost of filing the bond or deposit.

(d) The Labor Commissioner shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits.

(e)(1) Whenever a deposit is made in lieu of the bond otherwise required by this section, the person asserting the claim against the deposit shall establish the claim by

furnishing evidence to the Labor Commissioner of a money judgment entered by a court, together with evidence that the claimant is a person described in subdivision (b).

(2) When a claimant has established the claim with the Labor Commissioner, the Labor Commissioner shall review and approve the claim and enter the date of the approval thereon. The claim shall be designated an approved claim.

(3) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Labor Commissioner. Subsequent claims that are approved by the Labor Commissioner within the same 240-day period shall similarly not be paid until the expiration of that 240-day period. Upon the expiration of the 240-day period, the Labor Commissioner shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case every approved claim shall be paid a pro rata share of the deposit.

(4) Whenever the Labor Commissioner approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which paragraph (3) applies with respect to any amount remaining in the deposit.

(5) After a deposit is exhausted, no further claims shall be paid by the Labor Commissioner. Claimants who have had claims paid in full or in part pursuant to paragraph (3) or (4) shall not be required to return funds received from the deposit for the benefit of other claimants.

(6) Whenever a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the assignor of the deposit, other than as to an amount as no longer needed or required for the purposes of this chapter and that would otherwise be returned to the assignor of the deposit by the Labor Commissioner.

(7) The Labor Commissioner shall return a deposit two years from the date it receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business or act in the capacity of an advance-fee talent service or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice shall include all of the following:

(A) The name, address, and telephone number of the assignor.

(B) The name, address, and telephone number of the bank at which the deposit is located.

(C) The account number of the deposit.

(D) A statement that the assignor is ceasing to engage in the business or act in the capacity of an advance-fee talent service or has filed a bond with the Labor Commissioner. The Labor Commissioner shall forward an acknowledgement of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and the anticipated date of release of the deposit, provided there are then no outstanding claims against the deposit.

(8) A ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the court that there are no outstanding claims against the deposit, or order the Labor Commissioner to retain the deposit for a specified period beyond the two years to resolve outstanding claims against the deposit.

(9) This subdivision applies to all deposits retained by the Labor Commissioner. The Labor Commissioner shall notify each assignor of a deposit it retains and of the applicability of this section.

(10) Compliance with Sections 1700.15 and 1700.16 of this code or Section 1812.503, 1812.510, or 1812.515 of the Civil Code shall satisfy the requirements of this section.

Comment. Subdivision (e)(8) of Section 1701.10 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Lab. Code § 2691 (amended). Compliance or appeal

SEC. ___. Section 2691 of the Labor Code is amended to read:

2691. Within 10 days of receipt of notice of the award, the party or parties who are required to comply with the terms of the award shall so comply and file proof of such compliance with the commissioner or shall file a notice of appeal with the ~~municipal or~~ superior court for the county in which the hearing was held~~, in accordance with the appropriate rules of jurisdiction~~. Upon the filing of such an appeal, a trial de novo shall be held, provided, however, that the decision reached by the panel as stated in the award shall be received as evidence by the trial court.

Comment. Section 2691 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For the jurisdictional classification of an action pursuant to this section, see Code Civ. Proc. §§ 85 (limited civil cases) & Comment, 88 (unlimited civil cases); see also Code Civ. Proc. § 86 (miscellaneous limited civil cases).

Lab. Code § 5600 (amended). Writ of attachment

SEC. ___. Section 5600 of the Labor Code is amended to read:

5600. The appeals board may, upon the filing of an application by or on behalf of an injured employee, the employee's dependents, or any other party in interest, direct the ~~county~~ clerk <u>of the superior court</u> of any county to issue writs of attachment authorizing the sheriff to attach the property of the defendant as security for the payment of any compensation which may be awarded in any of the following cases:

(a) In any case mentioned in Section 415.50 of the Code of Civil Procedure.

(b) Where the employer has failed to secure the payment of compensation as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1.

The attachment shall be in an amount fixed by the appeals board, not exceeding the greatest probable award against the defendant in the matter.

Comment. Section 5600 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

MILITARY AND VETERANS CODE

Mil. & Vet. Code § 395.3 (amended). Return of public employee who resigned to enter military service

SEC. ___. Section 395.3 of the Military and Veterans Code is amended to read:

395.3. In the event that any public officer or employee has resigned or resigns his or her office or employment to serve or to continue to serve in the armed forces of the United States or in the armed forces of this state, he or she shall have a right to return to and reenter the office or employment prior to the time at which his or her term of office or his

or her employment would have ended if he or she had not resigned, on serving a written notice to that effect upon the authorized appointing power, or if there is no authorized appointing power, upon the officer or agency having power to fill a vacancy in the office or employment, within six months of the termination of his or her active service with the armed forces; provided, that the right to return and reenter upon the office or position shall not extend to or be granted to any public officer or employee, who shall fail to return to and reenter upon his or her office or position within 12 months after the first date upon which he or she could terminate or could cause to have terminated his or her active service with the armed forces of the United States or of the militia of this state.

As used in this section, "public officers and employees" includes all of the following:

(a) Members of the Senate and of the Assembly.

(b) Justices of the Supreme Court and the courts of appeal, judges of the superior courts ~~and of the municipal court~~s, and all other judicial officers.

(c) All other state officers and employees not within Chapter 11 (commencing with Section 19770) of Part 2 of Division 5 of Title 2 of the Government Code, including all officers for whose selection and term of office provision is made in the Constitution and laws of this state.

(d) All officers and employees of any county, city and county, city, township, district, political subdivision, authority, commission, board, or other public agency within this state.

The right of reentry into public office or employment provided for in this section shall include the right to be restored to the civil service status as the officer or employee would have if he or she had not so resigned; and no other person shall acquire civil service status in the same position so as to deprive the officer or employee of his or her right to restoration as provided for herein.

This section shall be retroactively applied to extend the right of reentry into public office or employment to public officers and employees who resigned prior to its effective date.

This section does not apply to any public officer or employee to whom the right to reenter public office or employment after service in the armed forces has been granted by any other provision of law.

If any provision of this section, or the application of this section to any person or circumstance, is held invalid, the remainder of this section, or the application of this section to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Comment. Subdivision (b) of Section 395.3 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. The reference to "judges of the municipal courts" is deleted as unnecessary, because municipal courts no longer exist and a former municipal court judge would be covered by the reference to "all other judicial officers."

PENAL CODE

Penal Code § 28 (amended). Evidence of mental disease, mental defect or mental disorder

SEC. ___. Section 28 of the Penal Code is amended to read:

28. (a) Evidence of mental disease, mental defect, or mental disorder shall not be admitted to show or negate the capacity to form any mental state, including, but not limited to, purpose, intent, knowledge, premeditation, deliberation, or malice aforethought, with which the accused committed the act. Evidence of mental disease, mental defect, or mental disorder is admissible solely on the issue of whether or not the accused actually formed a required specific intent, premeditated, deliberated, or harbored malice aforethought, when a specific intent crime is charged.

(b) As a matter of public policy there shall be no defense of diminished capacity, diminished responsibility, or irresistible impulse in a criminal action or juvenile adjudication hearing.

(c) This section shall not be applicable to an insanity hearing pursuant to Section 1026 ~~or 1429.5~~.

(d) Nothing in this section shall limit a court's discretion, pursuant to the Evidence Code, to exclude psychiatric or psychological evidence on whether the accused had a mental disease, mental defect, or mental disorder at the time of the alleged offense.

Comment. Subdivision (c) of Section 28 is amended to reflect the repeal of Section 1429.5, concerning a plea of not guilty by reason of insanity in a municipal court.

Penal Code § 808 (amended). Magistrates

SEC. ___. Section 808 of the Penal Code is amended to read:

808. The following persons are magistrates:

1. The judges of the Supreme Court.
2. The judges of the courts of appeal.
3. The judges of the superior courts.
~~4. The judges of the municipal courts.~~

Comment. Section 808 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 810 (amended). Availability of magistrate

SEC. ___. Section 810 of the Penal Code is amended to read:

810. (a) The presiding judge of the superior court ~~and the presiding judge of each municipal court~~ in a county shall, as often as is necessary, designate on a schedule not less than one judge of the ~~superior court or municipal~~ court to be reasonably available on call as a magistrate for the setting of orders for discharge from actual custody upon bail, the issuance of search warrants, and for such other matters as may by the magistrate be deemed appropriate, at all times when a court is not in session in the county.

(b) The officer in charge of a jail, or a person the officer designates, in which an arrested person is held in custody shall assist the arrested person or the arrested person's attorney in contacting the magistrate on call as soon as possible for the purpose of obtaining release on bail.

(c) Any telephone call made pursuant to this section by an arrested person while in custody or by such person's attorney shall not count or be considered as a telephone call for purposes of Section 851.5 of the Penal Code.

Comment. Subdivision (a) of Section 810 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 830.1 (amended). Peace officers

SEC. ___. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency which performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district (including police officers of the San Diego Unified Port District Harbor Police) authorized by statute to maintain a police department, any marshal or deputy marshal of a ~~municipal~~ superior court or county, any port warden or special officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs the peace officer or in which the peace officer serves.

(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) Special agents and Attorney General investigators of the Department of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of ~~a county of the first class~~ the County of Los Angeles, and any deputy sheriff of the Counties of Riverside and San Diego, who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state-of-emergency.

Comment. Subdivision (a) of Section 830.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Subdivision (a) is also amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Gov't Code §§ 71601(*l*) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court employees), 71620 (trial court personnel).

The reference to a county of the first class in subdivision (c) is revised to refer to Los Angeles County by name.

Penal Code § 851.8 (amended). Sealing and destruction of arrest records on determination of factual innocence

SEC. ___. Section 851.8 of the Penal Code is amended to read:

851.8. (a) In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of such petition shall be served upon the district attorney of the county having jurisdiction over the offense. The law enforcement agency having jurisdiction over the offense, upon a determination that the person arrested is factually innocent, shall, with the concurrence of the district attorney, seal its arrest records, and the petition for relief under this section for three years from the date of the arrest and thereafter destroy its arrest records and the petition. The law enforcement agency having jurisdiction over the offense shall notify the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this subdivision, of the sealing of the arrest records and the reason therefor. The Department of Justice and any law enforcement agency so notified shall forthwith seal their records of the arrest and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. The law enforcement agency having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Each such agency, person, or entity within the State of California receiving such a request shall destroy its records of the arrest and such request, unless otherwise provided in this section.

(b) If, after receipt by both the law enforcement agency and the district attorney of a petition for relief under subdivision (a), the law enforcement agency and district attorney do not respond to the petition by accepting or denying such petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to ~~the municipal court or~~ the superior court ~~in a county in which there is no municipal court~~ which would have had territorial jurisdiction over the matter. A copy of such petition shall be served on the district attorney of the county having jurisdiction over the offense at least 10 days prior to the hearing thereon. The district attorney may present evidence to the court at such hearing. Notwithstanding Section 1538.5 or 1539, any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this section shall not be made unless the court finds that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. In any court hearing to determine the factual innocence of a party, the initial burden of proof shall rest with the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. If the court finds that this showing of no reasonable cause has been made by the petitioner, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the petitioner committed the offense for which the arrest was made. If the court finds the arrestee to be factually innocent of the charges for which the arrest was made, then the court shall order the law enforcement

agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this section to seal their records of the arrest and the court order to seal and destroy such records, for three years from the date of the arrest and thereafter to destroy their records of the arrest and the court order to seal and destroy such records. The court shall also order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall destroy its records of the arrest and the request to destroy such records, unless otherwise provided in this section. The court shall give to the petitioner a copy of any court order concerning the destruction of the arrest records.

(c) In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court which dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of such petition shall be served on the district attorney of the county in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. The district attorney may present evidence to the court at such hearing. Such hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made, then the court shall grant the relief as provided in subdivision (b).

(d) In any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, the court may, with the concurrence of the district attorney, grant the relief provided in subdivision (b) at the time of the dismissal of the accusatory pleading.

(e) Whenever any person is acquitted of a charge and it appears to the judge presiding at the trial wherein such acquittal occurred that the defendant was factually innocent of such charge, the judge may grant the relief provided in subdivision (b).

(f) In any case where a person who has been arrested is granted relief pursuant to subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or court shall issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which the person was arrested and that the arrestee is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the person may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by persons applying for the destruction of their arrest records and for the written declaration that one person was found factually innocent under subdivisions (a) and (b).

(h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d), or (e) which are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in writing by the law enforcement agency having jurisdiction over the offense of the sealing and destruction of the arrest records pursuant to this section.

(i) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c), (d), or (e) shall not be admissible as evidence in any action.

(j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall be accomplished by permanent obliteration of all entries or notations upon such records

pertaining to the arrest, and the record shall be prepared again so that it appears that the arrest never occurred. However, where (1) the only entries on the record pertain to the arrest and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the arrestee or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of such records has received a certified copy of the complaint in such civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in the civil actions, upon a showing of good cause, may be opened and submitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties and any other person authorized by the court. Immediately following the final resolution of the civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

(*l*) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.

(m) Any relief which is available to a petitioner under this section for an arrest shall also be available for an arrest which has been deemed to be or described as a detention under Section 849.5 or 851.6.

(n) The provisions of this section shall not apply to any offense which is classified as an infraction.

(*o*)(1) The provisions of this section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence which is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate division of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a court of appeal. A judgment of a court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any such decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any such decision referred to in this subdivision which is a judgment by the appellate division of the superior court~~,~~ shall be appealed by the Attorney General.

(p) A judgment of the court under subdivision (b), (c), (d), or (e) is subject to the following appeal path:

(1) In a felony case, appeal is to the court of appeal.

(2) In a misdemeanor case, or in a case in which no accusatory pleading was filed, appeal is to the appellate division of the superior court.

Comment. Subdivision (b) of Section 851.8 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 859a (amended). Plea in non-capital felony case

SEC. ___. Section 859a of the Penal Code is amended to read:

859a. (a) If the public offense charged is a felony not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him or her whether he or she pleads guilty or not guilty to the offense charged therein and to a previous conviction or convictions of crime if charged. While the charge remains pending before the magistrate and when the defendant's counsel is present, the defendant may plead guilty to the offense charged, or, with the consent of the magistrate and the district attorney or other counsel for the people, plead nolo contendere to the offense charged or plead guilty or nolo contendere to any other offense the commission of which is necessarily included in that with which he or she is charged, or to an attempt to commit the offense charged and to the previous conviction or convictions of crime if charged upon a plea of guilty or nolo contendere. The magistrate may then fix a reasonable bail as provided by this code, and upon failure to deposit the bail or surety, shall immediately commit the defendant to the sheriff. Upon accepting the plea of guilty or nolo contendere the magistrate shall certify the case, including a copy of all proceedings therein and any testimony that in his or her discretion he or she may require to be taken, to the court in which judgment is to be pronounced at the time specified under subdivision (b), and thereupon the proceedings shall be had as if the defendant had pleaded guilty in that court. This subdivision shall not be construed to authorize the receiving of a plea of guilty or nolo contendere from any defendant not represented by counsel. If the defendant subsequently files a written motion to withdraw the plea under Section 1018, the motion shall be heard and determined by the court before which the plea was entered.

(b) Notwithstanding Section 1191 or 1203, the magistrate shall, upon the receipt of a plea of guilty or nolo contendere and upon the performance of the other duties of the magistrate under this section, immediately appoint a time for pronouncing judgment in the superior court ~~or municipal court~~ and refer the case to the probation officer if eligible for probation, as prescribed in Section 1191.

Comment. Subdivision (b) of Section 859a is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 869 (amended). Deposition or testimony before magistrate

SEC. ___. Section 869 of the Penal Code is amended to read:

869. The testimony of each witness in cases of homicide shall be reduced to writing, as a deposition, by the magistrate, or under his or her direction, and in other cases upon the demand of the prosecuting attorney, or the defendant, or his or her counsel. The magistrate before whom the examination is had may, in his or her discretion, order the testimony and proceedings to be taken down in shorthand in all examinations herein mentioned, and for that purpose he or she may appoint a shorthand reporter. The deposition or testimony of the witness shall be authenticated in the following form:

(a) It shall state the name of the witness, his or her place of residence, and his or her business or profession; except that if the witness is a peace officer, it shall state his or her name, and the address given in his or her testimony at the hearing.

(b) It shall contain the questions put to the witness and his or her answers thereto, each answer being distinctly read to him or her as it is taken down, and being corrected or added to until it conforms to what he or she declares is the truth, except in cases where the testimony is taken down in shorthand, the answer or answers of the witness need not be read to him or her.

(c) If a question put be objected to on either side and overruled, or the witness declines answering it, that fact, with the ground on which the question was overruled or the answer declined, shall be stated.

(d) The deposition shall be signed by the witness, or if he or she refuses to sign it, his or her reason for refusing shall be stated in writing, as he or she gives it, except in cases where the deposition is taken down in shorthand, it need not be signed by the witness.

(e) The reporter shall, within 10 days after the close of the examination, if the defendant be held to answer the charge of a felony, or in any other case if either the defendant or the prosecution orders the transcript, transcribe his or her shorthand notes, making an original and one copy and as many additional copies thereof as there are defendants (other than fictitious defendants), regardless of the number of charges or fictitious defendants included in the same examination, and certify and deliver the original and all copies to the ~~county~~ clerk of the superior court in the county in which the defendant was examined. The reporter shall, before receiving any compensation as a reporter, file ~~with the auditor of the county~~ his or her affidavit setting forth that the transcript has been delivered ~~to the county clerk~~ within the time herein provided for. The compensation of the reporter for any services rendered by him or her as the reporter in any court of this state shall be reduced one-half if the provisions of this section as to the time of filing said transcript have not been complied with by him or her.

(f) In every case in which a transcript is delivered as provided in this section, the ~~county~~ clerk of the court shall file the original of the transcript with the papers in the case, and shall deliver a copy of the transcript to the district attorney immediately upon his or her receipt thereof and shall deliver a copy of said transcript to each defendant (other than a fictitious defendant) at least five days before trial or upon earlier demand by him or her without cost to him or her; provided, that if any defendant be held to answer to two or more charges upon the same examination and thereafter the district attorney shall file separate informations upon said several charges, the delivery to each such defendant of one copy of the transcript of the examination shall be a compliance with this section as to all of those informations.

(g) If the transcript is delivered by the reporter within the time hereinbefore provided for, the reporter shall be entitled to receive the compensation fixed and allowed by law to reporters in the superior courts of this state.

Comment. Subdivisions (e) and (f) of Section 869 are amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Subdivision (e) is also amended to reflect enactment of the Trial Court Funding Act. See Gov't Code § 77001 (local trial court management). See also Gov't Code §§ 68073 (responsibility for court operations and facilities).

Penal Code § 870 (amended). Transcript of deposition

SEC. ___. Section 870 of the Penal Code is amended to read:

870. The magistrate or his or her clerk shall keep the depositions taken on the information or the examination, until they are returned to the proper court; and shall not permit them to be examined or copied by any person except a judge of a court having jurisdiction of the offense, or authorized to issue writs of habeas corpus, the Attorney General, district attorney, or other prosecuting attorney, and the defendant and his or her

counsel; provided however, upon demand by the defendant or his or her attorney the magistrate shall order a transcript of the depositions taken on the information, or on the examination, to be immediately furnished the defendant or his or her attorney, after the commitment of the defendant as provided by Sections 876 and 877, and the reporter furnishing the depositions, shall receive compensation ~~and be paid by the county for the same as provided by subdivision (f) of~~ in accordance with Section 869.

Comment. Section 870 is amended to reflect enactment of the Trial Court Funding Act. See Gov't Code § 77001 (local trial court management). See also Gov't Code §§ 68073 (responsibility for court operations and facilities).

The section is also amended to correct the reference to former subdivision (f) of Section 869.

Penal Code § 924.4 (amended). Grand jury succession

SEC. ___. Section 924.4 of the Penal Code is amended to read:

924.4. Notwithstanding the provisions of Sections 924.1 and 924.2, any grand jury or, if the grand jury is no longer ~~empaneled~~ impaneled, the presiding ~~or sole~~ judge of the superior court, may pass on and provide the succeeding grand jury with any records, information, or evidence acquired by the grand jury during the course of any investigation conducted by it during its term of service, except any information or evidence that relates to a criminal investigation or that could form part or all of the basis for issuance of an indictment. Transcripts of testimony reported during any session of the grand jury shall be made available to the succeeding grand jury upon its request.

Comment. Section 924.4 is amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Gov't Code § 69508.5 (presiding judge).

Penal Code § 932 (amended). Order of grand jury

SEC. ___. Section 932 of the Penal Code is amended to read:

932. After investigating the books and accounts of the various officials of the county, as provided in the foregoing sections of this article, the grand jury may order the district attorney of the county to institute suit to recover any money that, in the judgment of the grand jury, may from any cause be due the county. The order of the grand jury, certified by the foreman of the grand jury and filed with the ~~county~~ clerk of the superior court of the county, shall be full authority for the district attorney to institute and maintain any such suit.

Comment. Section 932 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 933 (amended). Final report of grand jury

SEC. ___. Section 933 of the Penal Code is amended to read:

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of

service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the ~~county~~ clerk of the court and remain on file in the office of the ~~county~~ clerk. The ~~county~~ clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

Comment. Subdivision (b) of Section 933 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 938.1 (amended). Transcript of grand jury proceedings

SEC. ___. Section 938.1 of the Penal Code is amended to read:

938.1. (a) If an indictment has been found or accusation presented against a defendant, such stenographic reporter shall certify and deliver to the ~~county~~ clerk of the superior court an original transcription of ~~his~~ the reporter's shorthand notes and a copy thereof and as many additional copies as there are defendants, other than fictitious defendants, regardless of the number of charges or fictitious defendants included in the same investigation. The reporter shall complete such certification and delivery within 10 days after the indictment has been found or the accusation presented unless the court for good cause makes an order extending the time. The time shall not be extended more than 20 days. The ~~county~~ clerk shall file the original of the transcript, deliver a copy of the transcript to the district attorney immediately upon ~~his~~ receipt thereof and deliver a copy of such transcript to each such defendant or ~~his~~ the defendant's attorney. If the copy of the testimony is not served as provided in this section the court shall on motion of the

defendant continue the trial to such time as may be necessary to secure to the defendant receipt of a copy of such testimony 10 days before such trial. If several criminal charges are investigated against a defendant on one investigation and thereafter separate indictments are returned or accusations presented upon said several charges, the delivery to such defendant or ~~his~~ the defendant's attorney of one copy of the transcript of such investigation shall be a compliance with this section as to all of such indictments or accusations.

(b) The transcript shall not be open to the public until 10 days after its delivery to the defendant or ~~his~~ the defendant's attorney. Thereafter the transcript shall be open to the public unless the court orders otherwise on its own motion or on motion of a party pending a determination as to whether all or part of the transcript should be sealed. If the court determines that there is a reasonable likelihood that making all or any part of the transcript public may prejudice a defendant's right to a fair and impartial trial, that part of the transcript shall be sealed until the defendant's trial has been completed.

Comment. Subdivision (a) of Section 938.1 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 987.2 (amended). Appointment and compensation of counsel

SEC. ___. Section 987.2 of the Penal Code is amended to read:

987.2. (a) In any case in which a person, including a person who is a minor, desires but is unable to employ counsel, and in which counsel is assigned in the superior ~~or municipal~~ court to represent the person in a criminal trial, proceeding, or appeal, the following assigned counsel shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county:

(1) In a county or city and county in which there is no public defender.

(2) In a county of the first, second, or third class where there is no contract for criminal defense services between the county and one or more responsible attorneys.

(3) In a case in which the court finds that, because of a conflict of interest or other reasons, the public defender has properly refused.

(4) In a county of the first, second, or third class where attorneys contracted by the county are unable to represent the person accused.

(b) The sum provided for in subdivision (a) may be determined by contract between the court and one or more responsible attorneys after consultation with the board of supervisors as to the total amount of compensation and expenses to be paid, which shall be within the amount of funds allocated by the board of supervisors for the cost of assigned counsel in those cases.

(c) In counties that utilize an assigned private counsel system as either the primary method of public defense or as the method of appointing counsel in cases where the public defender is unavailable, the county, the courts, or the local county bar association working with the courts are encouraged to do all of the following:

(1) Establish panels that shall be open to members of the State Bar of California.

(2) Categorize attorneys for panel placement on the basis of experience.

(3) Refer cases to panel members on a rotational basis within the level of experience of each panel, except that a judge may exclude an individual attorney from appointment to an individual case for good cause.

(4) Seek to educate those panel members through an approved training program.

(5) Establish a cost-efficient plan to ensure maximum recovery of costs pursuant to Section 987.8.

(d) In a county of the first, second, or third class, the court shall first utilize the services of the public defender to provide criminal defense services for indigent defendants. In the event that the public defender is unavailable and the county and the courts have contracted with one or more responsible attorneys or with a panel of attorneys to provide criminal defense services for indigent defendants, the court shall utilize the services of the county-contracted attorneys prior to assigning any other private counsel. Nothing in this subdivision shall be construed to require the appointment of counsel in any case in which the counsel has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of a county-contracted attorney after making a finding of good cause and stating the reasons therefor on the record.

(e) In a county of the first, second, or third class, the court shall first utilize the services of the public defender to provide criminal defense services for indigent defendants. In the event that the public defender is unavailable and the county has created a second public defender and contracted with one or more responsible attorneys or with a panel of attorneys to provide criminal defense services for indigent defendants, and if the quality of representation provided by the second public defender is comparable to the quality of representation provided by the public defender, the court shall next utilize the services of the second public defender and then the services of the county-contracted attorneys prior to assigning any other private counsel. Nothing in this subdivision shall be construed to require the appointment of counsel in any case in which the counsel has a conflict of interest. In the interest of justice, a court may depart from that portion of the procedure requiring appointment of the second public defender or a county-contracted attorney after making a finding of good cause and stating the reasons therefor on the record.

(f) In any case in which counsel is assigned as provided in subdivision (a), that counsel appointed by the court and any court-appointed licensed private investigator shall have the same rights and privileges to information as the public defender and the public defender investigator. It is the intent of the Legislature in enacting this subdivision to equalize any disparity that exists between the ability of private, court-appointed counsel and investigators, and public defenders and public defender investigators, to represent their clients. This subdivision is not intended to grant to private investigators access to any confidential Department of Motor Vehicles' information not otherwise available to them. This subdivision is not intended to extend to private investigators the right to issue subpoenas.

(g) Notwithstanding any other provision of this section, where an indigent defendant is first charged in one county and establishes an attorney-client relationship with the public defender, defense services contract attorney, or private attorney, and where the defendant is then charged with an offense in a second or subsequent county, the court in the second or subsequent county may appoint the same counsel as was appointed in the first county to represent the defendant when all of the following conditions are met:

(1) The offense charged in the second or subsequent county would be joinable for trial with the offense charged in the first if it took place in the same county, or involves evidence which would be cross-admissible.

(2) The court finds that the interests of justice and economy will be best served by unitary representation.

(3) Counsel appointed in the first county consents to the appointment.

(h) The county may recover costs of public defender services under Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 for any case subject to Section 4750.

(i) Counsel shall be appointed to represent, in a misdemeanor case, a person who desires but is unable to employ counsel, when it appears that the appointment is necessary to provide an adequate and effective defense for the defendant. Appointment of counsel in an infraction case is governed by Section 19.6.

(j) As used in this section, "county of the first, second, or third class" means the county of the first class, county of the second class, and county of the third class as provided by Sections 28020, 28022, 28023, and 28024 of the Government Code.

Comment. Subdivision (a) of Section 987.2 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1000 (amended). Application of chapter to certain violations

SEC. ___. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for a violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4060 of the Business and Professions Code, and it appears to the prosecuting attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he or she has successfully completed or been terminated from diversion or deferred entry of judgment pursuant to this chapter within five years prior to the alleged commission of the charged offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged offense.

(b) The prosecuting attorney shall review his or her file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) apply to the defendant. Upon the agreement of the prosecuting attorney, law enforcement, the public defender, and the presiding judge of the criminal division of the ~~municipal court or of the~~ superior court ~~in a county in which there is no municipal court~~, or a judge designated by the presiding judge, this procedure shall be completed as soon as possible after the initial filing of the charges. If the defendant is found eligible, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the

determination is based, and shall make this information available to the defendant and his or her attorney. This procedure is intended to allow the court to set the hearing for deferred entry of judgment at the arraignment. If the defendant is found ineligible for deferred entry of judgment, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. The sole remedy of a defendant who is found ineligible for deferred entry of judgment is a postconviction appeal.

(c) All referrals for deferred entry of judgment granted by the court pursuant to this chapter shall be made only to programs that have been certified by the county drug program administrator pursuant to Chapter 1.5 (commencing with Section 1211) of Title 8, or to programs that provide services at no cost to the participant and have been deemed by the court and the county drug program administrator to be credible and effective. The defendant may request to be referred to a program in any county, as long as that program meets the criteria set forth in this subdivision.

(d) Deferred entry of judgment for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.4.

(e) Any defendant who is participating in a program referred to in this section may be required to undergo analysis of his or her urine for the purpose of testing for the presence of any drug as part of the program. However, urine analysis results shall not be admissible as a basis for any new criminal prosecution or proceeding.

Comment. Subdivision (b) of Section 1000 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1000.5 (amended). Preguilty plea drug court program

SEC. ___. Section 1000.5 of the Penal Code is amended to read:

1000.5. (a) The presiding judge of the superior ~~or municipal~~ court, or a judge designated by the presiding judge, together with the district attorney and the public defender, may agree in writing to establish and conduct a preguilty plea drug court program pursuant to the provisions of this chapter, wherein criminal proceedings are suspended without a plea of guilty for designated defendants. The drug court program shall include a regimen of graduated sanctions and rewards, individual and group therapy, urine analysis testing commensurate with treatment needs, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, and other requirements as agreed to by the presiding judge or his or her designee, the district attorney, and the public defender. If there is no agreement in writing for a preguilty plea program by the presiding judge or his or her designee, the district attorney, and the public defender, the program shall be operated as a deferred entry of judgment program as provided in this chapter.

(b) The provisions of Section 1000.3 and Section 1000.4 regarding satisfactory and unsatisfactory performance in a program shall apply to preguilty plea programs. If the court finds that (1) the defendant is not performing satisfactorily in the assigned program, (2) the defendant is not benefiting from education, treatment, or rehabilitation, (3) the defendant has been convicted of a crime specified in Section 1000.3, or (4) the defendant has engaged in criminal conduct rendering him or her unsuitable for the preguilty plea program, the court shall reinstate the criminal charge or charges. If the defendant has performed satisfactorily during the period of the preguilty plea program, at the end of that

period, the criminal charge or charges shall be dismissed and the provisions of Section 1000.4 shall apply.

Comment. Subdivision (a) of Section 1000.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1050 (amended). Expediting trial

SEC. ___. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings. In further accordance with this policy, death penalty cases in which both the prosecution and the defense have informed the court that they are prepared to proceed to trial shall be given precedence over, and set for trial and heard without regard to the pendency of, other criminal cases and any civil matters or proceedings, unless the court finds in the interest of justice that it is not appropriate.

(b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary and (2) within two court days of learning that he or she has a conflict in the scheduling of any court hearing, including a trial, an attorney shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify the people's witnesses and the defense attorney shall notify the defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court. ~~The superior and municipal courts of a county may adopt rules, which shall be consistent, regarding the method of giving the notice or waiver of service required by this subdivision, where a continuance is sought because of a conflict between scheduled appearances in the courts of that county.~~

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good

cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

(g)(1) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

(2) For purposes of this section, "good cause" includes, but is not limited to, those cases involving murder, as defined in subdivision (a) of Section 187, allegations that stalking, as defined in Section 646.9, a violation of one or more of the sections specified in subdivision (a) of Section 11165.1 or Section 11165.6, or domestic violence as defined in Section 13700, or a case being handled in the Career Criminal Prosecution Program pursuant to Sections 999b through 999h, has occurred and the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in that court or another court. A continuance under this paragraph shall be limited to a maximum of 10 additional court days.

(3) Only one continuance per case may be granted to the people under this subdivision for cases involving stalking or cases handled under the Career Criminal Prosecution Program. Any continuance granted to the people in a case involving stalking or handled under the Career <u>Criminal</u> Prosecution Program shall be for the shortest time possible, not to exceed 10 court days.

(h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court on an indictment or information is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.

(j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chair of the Judicial Council.

(k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

Comment. Subdivision (b) of Section 1050 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1089 (amended). Alternate jurors

SEC. ___. Section 1089 of the Penal Code is amended to read:

1089. Whenever, in the opinion of a judge of a superior ~~or of a municipal~~ court about to try a defendant against whom has been filed any indictment or information or complaint, the trial is likely to be a protracted one, the court may cause an entry to that effect to be made in the minutes of the court, and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or more additional jurors, in its discretion, to be known as "alternate jurors."

Such alternate jurors must be drawn from the same source, and in the same manner, and have the same qualifications as the jurors already sworn, and be subject to the same examination and challenges; provided, that the prosecution and the defendant shall each be entitled to as many peremptory challenges to such alternate jurors as there are alternate jurors called. When two or more defendants are tried jointly each defendant shall be entitled to as many peremptory challenges to such alternate jurors as there are alternate jurors called. The prosecution shall be entitled to additional peremptory challenges equal to the number of all the additional separate challenges allowed the defendant or defendants to such alternate jurors.

Such alternate jurors shall be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and must attend at all times upon the trial of the cause in company with the other jurors; and for a failure so to do are liable to be punished for contempt.

They shall obey the orders of and be bound by the admonition of the court, upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff or marshal during the trial of the cause, such alternate jurors shall also be kept in confinement with the other jurors; and upon final submission of the case to the jury such alternate jurors shall be kept in the custody of the sheriff or marshal and shall not be discharged until the original jurors are discharged, except as hereinafter provided.

If at any time, whether before or after the final submission of the case to the jury, a juror dies or becomes ill, or upon other good cause shown to the court is found to be unable to perform his duty, or if a juror requests a discharge and good cause appears therefor, the court may order ~~him~~ <u>the juror</u> to be discharged and draw the name of an alternate, who shall then take ~~his~~ <u>a</u> place in the jury box, and be subject to the same rules and regulations as though ~~he~~ <u>the alternate juror</u> had been selected as one of the original jurors.

Comment. Section 1089 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1203.1b (amended). Defendant's obligation to pay for probation supervision or conditional sentence

SEC. ___. Section 1203.1b of the Penal Code is amended to read:

1203.1b. (a) In any case in which a defendant is convicted of an offense and is the subject of any preplea or presentence investigation and report, whether or not probation supervision is ordered by the court, and in any case in which a defendant is granted probation or given a conditional sentence, the probation officer, or his or her authorized representative, taking into account any amount that the defendant is ordered to pay in fines, assessments, and restitution, shall make a determination of the ability of the

defendant to pay all or a portion of the reasonable cost of any probation supervision or a conditional sentence, of conducting any preplea investigation and preparing any preplea report pursuant to Section 1203.7, of conducting any presentence investigation and preparing any presentence report made pursuant to Section 1203, and of processing a jurisdictional transfer pursuant to Section 1203.9 or of processing a request for interstate compact supervision pursuant to Sections 11175 to 11179, inclusive, whichever applies. The reasonable cost of these services and of probation supervision or a conditional sentence shall not exceed the amount determined to be the actual average cost thereof. A payment schedule for the reimbursement of the costs of preplea or presentence investigations based on income shall be developed by the probation department of each county and approved by the presiding ~~judges of the municipal and superior courts~~ judge of the superior court. The court shall order the defendant to appear before the probation officer, or his or her authorized representative, to make an inquiry into the ability of the defendant to pay all or a portion of these costs. The probation officer, or his or her authorized representative, shall determine the amount of payment and the manner in which the payments shall be made to the county, based upon the defendant's ability to pay. The probation officer shall inform the defendant that the defendant is entitled to a hearing, that includes the right to counsel, in which the court shall make a determination of the defendant's ability to pay and the payment amount. The defendant must waive the right to a determination by the court of his or her ability to pay and the payment amount by a knowing and intelligent waiver.

(b) When the defendant fails to waive the right provided in subdivision (a) to a determination by the court of his or her ability to pay and the payment amount, the probation officer shall refer the matter to the court for the scheduling of a hearing to determine the amount of payment and the manner in which the payments shall be made. The court shall order the defendant to pay the reasonable costs if it determines that the defendant has the ability to pay those costs based on the report of the probation officer, or his or her authorized representative. The following shall apply to a hearing conducted pursuant to this subdivision:

(1) At the hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the evidence against the defendant, and a written statement of the findings of the court or the probation officer, or his or her authorized representative.

(2) At the hearing, if the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability.

(3) At the hearing, in making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(4) When the court determines that the defendant's ability to pay is different from the determination of the probation officer, the court shall state on the record the reason for its order.

(c) The court may hold additional hearings during the probationary or conditional sentence period to review the defendant's financial ability to pay the amount, and in the manner, as set by the probation officer, or his or her authorized representative, or as set by the court pursuant to this section.

(d) If practicable, the court shall order or the probation officer shall set payments pursuant to subdivisions (a) and (b) to be made on a monthly basis. Execution may be issued on the order issued pursuant to this section in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

(e) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the preplea or presentence report, processing a jurisdictional transfer pursuant to Section 1203.9, processing requests for interstate compact supervision pursuant to Sections 11175 to 11179, inclusive, and probation supervision or conditional sentence, and shall include, but shall not be limited to, the defendant's:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant shall be able to obtain employment within the one-year period from the date of the hearing.

(4) Any other factor or factors that may bear upon the defendant's financial capability to reimburse the county for the costs.

(f) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the probation officer for a review of the defendant's financial ability to pay or the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The probation officer and the court shall advise the defendant of this right at the time of rendering of the terms of probation or the judgment.

(g) All sums paid by a defendant pursuant to this section shall be allocated for the operating expenses of the county probation department.

(h) The board of supervisors in any county, by resolution, may establish a fee for the processing of payments made in installments to the probation department pursuant to this section, not to exceed the administrative and clerical costs of the collection of those installment payments as determined by the board of supervisors, except that the fee shall not exceed fifty dollars ($50).

(i) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors.

Comment. Subdivision (a) of Section 1203.1b is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1203.1c (amended). Defendant's obligation to pay for cost of incarceration in local detention facility

SEC. ___. Section 1203.1c of the Penal Code is amended to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail, city jail, or other local detention facility as a term of probation or a conditional sentence, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors, with respect to the county jail, and by the city council, with respect to the city jail, to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in

its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county, or to the city with respect to incarceration in the city jail, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors, or to a city officer designated by the city council with respect to incarceration in the city jail.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors, or by the city council with respect to incarceration in the city jail, and approved by the presiding ~~judges of the municipal and superior courts~~ judge of the superior court in the county.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one-year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county or city for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county or city.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors, and shall be operative in a city upon the adoption of an ordinance to that effect by the city council. Such ordinance shall include a designation of the officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail, city jail, or other local detention facility.

Comment. Subdivision (a) of Section 1203.1c is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1203.6 (amended). Adult probation officer

SEC. ___. Section 1203.6 of the Penal Code is amended to read:

1203.6. The adult probation officer shall be appointed and may be removed for good cause ~~by the judge of the superior court or~~, in a county with two superior court judges, by the presiding judge ~~who is senior in point of service~~. In the case of a superior court of more than two judges, a majority of the judges shall make the appointment, and may effect removal.

The salary of the probation officer shall be established by the board of supervisors.

The adult probation officer shall appoint and may remove all assistants, deputies and other persons employed in ~~his~~ the officer's department, and their compensation shall be established, according to the merit system or civil service system provisions of the county. If no merit system or civil service system exists in the county, the board of supervisors shall provide for appointment, removal, and compensation of such personnel.

This section is applicable in a charter county whose charter establishes the office of adult probation officer and provides that such officer shall be appointed in accordance with general law subject to the merit system provisions of the charter.

Comment. Section 1203.6 is amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the "presiding judge" means the sole judge of the court. See Gov't Code § 69508.5 (presiding judge).

The section is also amended to replace language referring to the senior judge with language referring to the presiding judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Penal Code § 1214 (amended). Enforcement of judgment for restitution fine or other fine

SEC. ___. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally. Any portion of a restitution fine that remains unsatisfied after a defendant is no longer on probation or parole is enforceable by the State Board of Control pursuant to this section. Notwithstanding any other provision of law prohibiting disclosure, the state, as defined in Section 900.6 of the Government Code, a local public entity, as defined in Section 900.4 of the Government Code, or any other entity, may provide the State Board of Control any and all information to assist in the collection of unpaid portions of a restitution fine for terminated probation or parole cases. For purposes of the preceding sentence, "state, as defined in Section 900.6 of the Government Code," and "any other entity" shall not include the Franchise Tax Board.

(b) In any case in which a defendant is ordered to pay restitution, the order to pay restitution (1) is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered, and (2) shall be fully enforceable by a victim as if the restitution order were a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's disclosure pursuant to paragraph (4) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (5) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (7) of subdivision (f) of Section 1202.4. The court also shall provide this information to the district attorney upon request in connection with an

investigation or prosecution involving perjury or the veracity of the information contained within the defendant's financial disclosure. In addition, upon request, the court shall provide the State Board of Control with a certified copy of any order imposing a restitution fine or order and a copy of the defendant's disclosure pursuant to paragraph (4) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (5) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (7) of subdivision (f) of Section 1202.4. A victim shall have access to all resources available under the law to enforce the restitution order, including, but not limited to, access to the defendant's financial records, use of wage garnishment and lien procedures, information regarding the defendant's assets, and the ability to apply for restitution from any fund established for the purpose of compensating victims in civil cases. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation or parole is enforceable by the victim pursuant to this section. Victims and the State Board of Control shall inform the court whenever an order to pay restitution is satisfied.

(c) Except as provided in subdivision (d), and notwithstanding the amount in controversy limitation of Section 85 of the Code of Civil Procedure, a restitution order or restitution fine that was imposed pursuant to Section 1202.4 ~~by a municipal court, or by the superior court acting pursuant to subdivision (d) of Section 1462,~~ in any of the following cases may be enforced in the same manner as a money judgment in a limited civil case:

(1) In a misdemeanor case.

(2) In a case involving violation of a city or town ordinance.

(3) In a noncapital criminal case where the court has received a plea of guilty or nolo contendere.

(d) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine or restitution ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994.

(e)(1) This section shall become operative on January 1, 2000, and shall be applicable to all courts, except when all of the following apply:

(A) A majority of judges of a court apply to the Judicial Council for an extension.

(B) The judicial application described in paragraph (1) documents the need for time to adjust restitution procedures and practices, as well as to facilitate judicial education and training in direct restitution to victims under subdivision (f) of Section 1202.4.

(C) The Judicial Council grants the extension upon finding good cause.

(2) Upon the grant of an extension pursuant to the application of a court under this subdivision, the provisions of former Section 1202.4 shall continue to apply with respect to that court. The extension may be for any period of time set by the Judicial Council, but shall not exceed January 1, 2002, in any case.

Comment. Subdivision (c) of Section 1214 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution, and to reflect the repeal of Section 1462, concerning the jurisdiction of the municipal and superior courts. Subdivisions (c)(1)-(c)(3) are drawn from former Section 1462(a)-(b).

Penal Code § 1237.5 (amended). Required documents for appeal

SEC. ___. Section 1237.5 of the Penal Code is amended to read:

1237.5. No appeal shall be taken by the defendant from a judgment of conviction upon a plea of guilty or nolo contendere, or a revocation of probation following an admission of violation, except where both of the following are met:

(a) The defendant has filed with the trial court a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings.

(b) The trial court has executed and filed a certificate of probable cause for such appeal with the ~~county~~ clerk of the court.

~~This section shall become operative on January 1, 1992~~.

Comment. Subdivision (b) of Section 1237.5 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 1240.1 (amended). Duties of defendant's counsel regarding appeal

SEC. ___. Section 1240.1 of the Penal Code is amended to read:

1240.1. (a) In any noncapital criminal, juvenile court, or civil commitment case wherein the defendant would be entitled to the appointment of counsel on appeal if indigent, it shall be the duty of the attorney who represented the person at trial to provide counsel and advice as to whether arguably meritorious grounds exist for reversal or modification of the judgment on appeal. The attorney shall admonish the defendant that he or she is not able to provide advice concerning his or her own competency, and that the State Public Defender or other counsel should be consulted for advice as to whether an issue regarding the competency of counsel should be raised on appeal. The trial court may require trial counsel to certify that he or she has counseled the defendant as to whether arguably meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this section shall be construed to prevent any person having a right to appeal from doing so.

(b) It shall be the duty of every attorney representing an indigent defendant in any criminal, juvenile court, or civil commitment case to execute and file on his or her client's behalf a timely notice of appeal when the attorney is of the opinion that arguably meritorious grounds exist for a reversal or modification of the judgment or orders to be appealed from, and where, in the attorney's judgment, it is in the defendant's interest to pursue any relief that may be available to him or her on appeal; or when directed to do so by a defendant having a right to appeal.

With the notice of appeal the attorney shall file a brief statement of the points to be raised on appeal and a designation of any document, paper, pleading, or transcript of oral proceedings necessary to properly present those points on appeal when the document, paper, pleading or transcript of oral proceedings would not be included in the normal record on appeal according to the applicable provisions of the California Rules of Court. The executing of the notice of appeal by the defendant's attorney shall not constitute an undertaking to represent the defendant on appeal unless the undertaking is expressly stated in the notice of appeal.

If the defendant was represented by appointed counsel on the trial level, or if it appears that the defendant will request the appointment of counsel on appeal by reason of indigency, the trial attorney shall also assist the defendant in preparing and submitting a motion for the appointment of counsel and any supporting declaration or affidavit as to

the defendant's financial condition. These documents shall be filed with the trial court at the time of filing a notice of appeal, and shall be transmitted by the clerk of the trial court to the clerk of the appellate court within three judicial days of their receipt. The appellate court shall act upon that motion without unnecessary delay. An attorney's failure to file a motion for the appointment of counsel with the notice of appeal shall not foreclose the defendant from filing a motion at any time it becomes known to him or her that the attorney has failed to do so, or at any time he or she shall become indigent if he or she was not previously indigent.

(c) The State Public Defender shall, at the request of any attorney representing a prospective indigent appellant or at the request of the prospective indigent appellant himself or herself, provide counsel and advice to the prospective indigent appellant or attorney as to whether arguably meritorious grounds exist on which the judgment or order to be appealed from would be reversed or modified on appeal.

(d) The failure of a trial attorney to perform any duty prescribed in this section, assign any particular point or error in the notice of appeal, or designate any particular thing for inclusion in the record on appeal shall not foreclose any defendant from filing a notice of appeal on his or her own behalf or from raising any point or argument on appeal; nor shall it foreclose the defendant or his or her counsel on appeal from requesting the augmentation or correction of the record on appeal in the reviewing court.

(e)(1) In order to expedite certification of the entire record on appeal in all capital cases, the defendant's trial counsel, whether retained by the defendant or court-appointed, and the prosecutor shall continue to represent the respective parties. Each counsel's obligations extend to taking all steps necessary to facilitate the preparation and timely certification of the record of ~~both municipal and superior~~ <u>all trial</u> court proceedings.

(2) The duties imposed on trial counsel in paragraph (1) shall not foreclose the defendant's appellate counsel from requesting additions or corrections to the record on appeal in either the trial court or the Supreme Court in a manner provided by rules of court adopted by the Judicial Council.

Comment. Subdivision (e)(1) of Section 1240.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Where proceedings in a case were held in municipal court before unification, the reference to "all trial court proceedings" encompasses both the municipal and the superior court proceedings in the case.

Penal Code § 1281a (amended). Bail in felony cases

SEC. ___. Section 1281a of the Penal Code is amended to read:

1281a. A judge of ~~any municipal~~ <u>the superior</u> court within the county, wherein a cause is pending against any person charged with a felony, may justify and approve bail in the said cause, and may execute an order for the release of the defendant which shall authorize the discharge of the defendant by any officer having said defendant in custody.

Comment. Section 1281a is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1428 (amended). Docket

SEC. ___. Section 1428 of the Penal Code is amended to read:

1428. ~~A docket must be kept by the clerk of each municipal court having jurisdiction of criminal actions or proceedings, in which must be entered~~ <u>In misdemeanor and infraction cases, the clerk of the superior court may keep a docket, instead of minutes pursuant to Section 69844 of the Government Code and a register of actions pursuant to Section</u>

69845 or 69845.5 of the Government Code. In the docket, the clerk shall enter the title of each criminal action or proceeding and under each title all the orders and proceedings in such action or proceeding. Wherever by any other section of this code made applicable to such ~~courts~~ court an entry of any judgment, order or other proceeding in the minutes or register of actions is required, an entry thereof in the docket shall be made and shall be deemed a sufficient entry in the minutes or register of actions for all purposes.

Comment. Section 1428 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1429.5 (repealed). Plea of not guilty by reason of insanity to misdemeanor charge in municipal court

SEC. ___. Section 1429.5 of the Penal Code is repealed.

~~1429.5. When a defendant pleads not guilty by reason of insanity to a misdemeanor charge in a municipal court, and also joins with it another plea or pleas, the defendant shall first be tried as if the defendant had entered such other plea or pleas only, and in such trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the defendant shall be found guilty, or if the defendant pleads only not guilty by reason of insanity, then the defendant shall be certified to the superior court of the county for prompt trial to determine the question whether the defendant was sane or insane at the time the offense was committed. The superior court shall proceed as provided in Sections 1026 and 1027. If the verdict or finding be that the defendant was sane at the time the offense was committed the superior court shall remand the defendant to the court from which the defendant was certified which court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed the superior court shall proceed as provided in Section 1026.~~

Comment. Section 1429.5 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For a plea of not guilty by reason of insanity to a misdemeanor or other criminal charge in superior court, see Section 1026.

Penal Code § 1462 (repealed). Municipal court jurisdiction

SEC. ___. Section 1462 of the Penal Code is repealed.

~~1462. (a) Each municipal court shall have jurisdiction in all criminal cases amounting to misdemeanor, where the offense charged was committed within the county in which the municipal court is established. Each municipal court shall have exclusive jurisdiction in all cases involving the violation of ordinances of cities or towns situated within the district in which the court is established.~~

~~(b) Each municipal court shall have jurisdiction in all noncapital criminal cases to receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment under Section 859a, pronounce judgment, and refer the case to the probation officer if eligible for probation.~~

~~(c) The superior courts shall have jurisdiction in all misdemeanor criminal cases to receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment, and pronounce judgment.~~

~~(d) The superior court in a county in which there is no municipal court has the jurisdiction provided in subdivisions (a) and (b).~~

Comment. Section 1462 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. The provision is no longer

necessary, because the superior court has original jurisdiction of all causes in a unified court system. See Cal. Const. art. VI, § 10 (original jurisdiction).

Penal Code § 1463 (amended). Definitions

SEC. ___. Section 1463 of the Penal Code is amended to read:

1463. All fines and forfeitures imposed and collected for crimes shall be distributed in accordance with Section 1463.001.

The following definitions shall apply to terms used in this chapter:

(a) "Arrest" means any law enforcement action, including issuance of a notice to appear or notice of violation, which results in a criminal charge.

(b) "City" includes any city, city and county, district, including any enterprise special district, community service district, or community service area engaged in police protection activities as reported to the Controller for inclusion in the 1989-90 edition of the Financial Transactions Report Concerning Special Districts under the heading of Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

(c) "City arrest" means an arrest by an employee of a city, or by a California Highway Patrol officer within the limits of a city.

(d) "County" means the county in which the arrest took place.

(e) "County arrest" means an arrest by a California Highway Patrol officer outside the limits of a city, or any arrest by a county officer or by any other state officer.

(f) "Court" means the superior ~~or municipal~~ court or a juvenile forum established under Section 257 of the Welfare and Institutions Code, in which the case arising from the arrest is filed.

(g) "Division of moneys" means an allocation of base fine proceeds between agencies as required by statute including, but not limited to, Sections 1463.003, 1463.9, 1463.23, 1463.26, and Sections 13001, 13002, and 13003 of the Fish and Game Code, and Section 11502 of the Health and Safety Code.

(h) "Offense" means any infraction, misdemeanor, or felony, and any act by a juvenile leading to an order to pay a financial sanction by reason of the act being defined as an infraction, misdemeanor, or felony, whether defined in this or any other code, except any parking offense as defined in subdivision (i).

(i) "Parking offense" means any offense charged pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, including registration and equipment offenses included on a notice of parking violation.

(j) "Penalty allocation" means the deposit of a specified part of moneys to offset designated processing costs, as provided by Section 1463.16 and by Section 68090.8 of the Government Code.

(k) "Total parking penalty" means the total sum to be collected for a parking offense, whether as fine, forfeiture of bail, or payment of penalty to the Department of Motor Vehicles. It may include the following components:

(1) The base parking penalty as established pursuant to Section 40203.5 of the Vehicle Code.

(2) The Department of Motor Vehicles (DMV) fees added upon the placement of a hold pursuant to Section 40220 of the Vehicle Code.

(3) The surcharges required by Section 76000 of the Government Code.

(4) The notice penalty added to the base parking penalty when a notice of delinquent parking violations is given.

(*l*) "Total fine or forfeiture" means the total sum to be collected upon a conviction, or the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It may include, but is not limited to, the following components as specified for the particular offense:

(1) The "base fine" upon which the state penalty and additional county penalty is calculated.

(2) The "county penalty" required by Section 76000 of the Government Code.

(3) The "service charge" permitted by Section 853.7 of the Penal Code and Section 40508.5 of the Vehicle Code.

(4) The "special penalty" dedicated for blood alcohol analysis, alcohol program services, traumatic brain injury research, and similar purposes.

(5) The "state penalty" required by Section 1464.

Comment. Subdivision (f) of Section 1463 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1524.1 (amended). HIV testing of accused's blood

SEC. ___. Section 1524.1 of the Penal Code is amended to read:

1524.1. (a) The primary purpose of the testing and disclosure provided in this section is to benefit the victim of a crime by informing the victim whether the defendant is infected with the HIV virus. It is also the intent of the Legislature in enacting this section to protect the health of both victims of crime and those accused of committing a crime. Nothing in this section shall be construed to authorize mandatory testing or disclosure of test results for the purpose of a charging decision by a prosecutor, nor, except as specified in subdivisions (g) and (i), shall this section be construed to authorize breach of the confidentiality provisions contained in Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code.

(b)(1) Notwithstanding the provisions of Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime, the court, at the request of the victim, may issue a search warrant for the purpose of testing the accused's blood with any HIV test, as defined in Section 120775 of the Health and Safety Code only under the following circumstances: when the court finds, upon the conclusion of the hearing described in paragraph (3), or in those cases in which a preliminary hearing is not required to be held, the court also finds that there is probable cause to believe that the accused committed the offense, and that there is probable cause to believe that blood, semen, or any other body fluid identified by the State Department of Health Services in appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim.

(2) Notwithstanding Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289,

or 289.5, the court, at the request of the victim of the uncharged offense, may issue a search warrant for the purpose of testing the accused's blood with any HIV test, as defined in Section 120775 of the Health and Safety Code only under the following circumstances: when the court finds that there is probable cause to believe that the accused committed the uncharged offense, and that there is probable cause to believe that blood, semen, or any other body fluid identified by the State Department of Health Services in appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim.

(3)(A) Prior to the issuance of a search warrant pursuant to paragraph (1), the court, where applicable and at the conclusion of the preliminary examination if the defendant is ordered to answer pursuant to Section 872, shall conduct a hearing at which both the victim and the defendant have the right to be present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (1) shall be admissible.

(B) Prior to the issuance of a search warrant pursuant to paragraph (2), the court, where applicable, shall conduct a hearing at which both the victim and the defendant are present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (2) shall be admissible.

(4) A request for a probable cause hearing made by a victim under paragraph (2) shall be made before sentencing in the ~~municipal or~~ superior court, or before disposition on a petition in a juvenile court, of the criminal charge or charges filed against the defendant.

(c)(1) In all cases in which the person has been charged by complaint, information, or indictment with a crime, or is the subject of a petition filed in a juvenile court alleging the commission of a crime, the prosecutor shall advise the victim of his or her right to make this request. To assist the victim of the crime to determine whether he or she should make this request, the prosecutor shall refer the victim to the local health officer for prerequest counseling to help that person understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the accused, to ensure that the victim understands both the benefits and limitations of the current tests for HIV, to help the victim decide whether he or she wants to request that the accused be tested, and to help the victim decide whether he or she wants to be tested.

(2) The Department of Justice, in cooperation with the California District Attorneys Association, shall prepare a form to be used in providing victims with the notice required by paragraph (1).

(d) If the victim decides to request HIV testing of the accused, the victim shall request the issuance of a search warrant, as described in subdivision (b).

Neither the failure of a prosecutor to refer or advise the victim as provided in this subdivision, nor the failure or refusal by the victim to seek or obtain counseling, shall be considered by the court in ruling on the victim's request.

(e) The local health officer shall make provision for administering all HIV tests ordered pursuant to subdivision (b).

(f) Any blood tested pursuant to subdivision (b) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the accused unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(g) The local health officer shall have the responsibility for disclosing test results to the victim who requested the test and to the accused who was tested. However, no positive

test results shall be disclosed to the victim or to the accused without also providing or offering professional counseling appropriate to the circumstances.

(h) The local health officer and victim shall comply with all laws and policies relating to medical confidentiality subject to the disclosure authorized by subdivisions (g) and (i). Any individual who files a false report of sexual assault in order to obtain test result information pursuant to this section shall, in addition to any other liability under law, be guilty of a misdemeanor punishable as provided in subdivision (c) of Section 120980 of the Health and Safety Code. Any individual as described in the preceding sentence who discloses test result information obtained pursuant to this section shall also be guilty of an additional misdemeanor punishable as provided for in subdivision (c) of Section 120980 of the Health and Safety Code for each separate disclosure of that information.

(i) Any victim who receives information from the health officer pursuant to subdivision (g) may disclose the test results as the victim deems necessary to protect his or her health and safety or the health and safety of his or her family or sexual partner.

(j) Any person transmitting test results or disclosing information pursuant to this section shall be immune from civil liability for any actions taken in compliance with this section.

(k) The results of any blood tested pursuant to subdivision (b) shall not be used in any criminal proceeding as evidence of either guilt or innocence.

Comment. Subdivision (b)(4) of Section 1524.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 1538.5 (amended). Suppression motion

SEC. ___. Section 1538.5 of the Penal Code is amended to read:

1538.5. (a)(1) A defendant may move for the return of property or to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure on either of the following grounds:

(A) The search or seizure without a warrant was unreasonable.

(B) The search or seizure with a warrant was unreasonable because any of the following apply:

(i) The warrant is insufficient on its face.

(ii) The property or evidence obtained is not that described in the warrant.

(iii) There was not probable cause for the issuance of the warrant.

(iv) The method of execution of the warrant violated federal or state constitutional standards.

(v) There was any other violation of federal or state constitutional standards.

(2) A motion pursuant to paragraph (1) shall be made in writing and accompanied by a memorandum of points and authorities and proof of service. The memorandum shall list the specific items of property or evidence sought to be returned or suppressed and shall set forth the factual basis and the legal authorities that demonstrate why the motion should be granted.

(b) When consistent with the procedures set forth in this section and subject to the provisions of Section 170 to 170.6, inclusive, of the Code of Civil Procedure, the motion should first be heard by the magistrate who issued the search warrant if there is a warrant.

(c) Whenever a search or seizure motion is made in the ~~municipal or~~ superior court as provided in this section, the judge or magistrate shall receive evidence on any issue of fact necessary to determine the motion.

(d) If a search or seizure motion is granted pursuant to the proceedings authorized by this section, the property or evidence shall not be admissible against the movant at any

trial or other hearing unless further proceedings authorized by this section, Section 871.5, 1238, or 1466 are utilized by the people.

(e) If a search or seizure motion is granted at a trial, the property shall be returned upon order of the court unless it is otherwise subject to lawful detention. If the motion is granted at a special hearing, the property shall be returned upon order of the court only if, after the conclusion of any further proceedings authorized by this section, Section 1238 or 1466, the property is not subject to lawful detention or if the time for initiating the proceedings has expired, whichever occurs last. If the motion is granted at a preliminary hearing, the property shall be returned upon order of court after 10 days unless the property is otherwise subject to lawful detention or unless, within that time, further proceedings authorized by this section, Section 871.5 or 1238 are utilized; if they are utilized, the property shall be returned only if, after the conclusion of the proceedings, the property is no longer subject to lawful detention.

(f)(1) If the property or evidence relates to a felony offense initiated by a complaint, the motion shall be made ~~in the superior court~~ only upon filing of an information, except that the defendant may make the motion at the preliminary hearing ~~in the municipal court or in the superior court in a county in which there is no municipal court~~, but the motion shall be restricted to evidence sought to be introduced by the people at the preliminary hearing.

(2) The motion may be made at the preliminary examination only if at least five court days before the date set for the preliminary examination the defendant has filed and personally served on the people a written motion accompanied by a memorandum of points and authorities as required by paragraph (2) of subdivision (a). At the preliminary examination, the magistrate may grant the defendant a continuance for the purpose of filing the motion and serving the motion upon the people, at least five court days before resumption of the examination, upon a showing that the defendant or his or her attorney of record was not aware of the evidence or was not aware of the grounds for suppression before the preliminary examination.

(3) Any written response by the people to the motion described in paragraph (2) shall be filed with the court and personally served on the defendant or his or her attorney of record at least two court days prior to the hearing at which the motion is to be made.

(g) If the property or evidence relates to a misdemeanor complaint, the motion shall be made ~~in the municipal court or in the superior court in a county in which there is no municipal court~~ before trial and heard prior to trial at a special hearing relating to the validity of the search or seizure. If the property or evidence relates to a misdemeanor filed together with a felony, the procedure provided for a felony in this section and Sections 1238 and 1539 shall be applicable.

(h) If, prior to the trial of a felony or misdemeanor, opportunity for this motion did not exist or the defendant was not aware of the grounds for the motion, the defendant shall have the right to make this motion during the course of trial ~~in the municipal or superior court~~.

(i) If the property or evidence obtained relates to a felony offense initiated by complaint and the defendant was held to answer at the preliminary hearing, or if the property or evidence relates to a felony offense initiated by indictment, the defendant shall have the right to renew or make the motion ~~in the superior court~~ at a special hearing relating to the validity of the search or seizure which shall be heard prior to trial and at least 10 court days after notice to the people, unless the people are willing to waive a portion of this time. Any written response by the people to the motion shall be filed with the court and personally served on the defendant or his or her attorney of record at least two court days prior to the hearing, unless the defendant is willing to waive a portion of this time. If the

offense was initiated by indictment or if the offense was initiated by complaint and no motion was made at the preliminary hearing, the defendant shall have the right to fully litigate the validity of a search or seizure on the basis of the evidence presented at a special hearing. If the motion was made at the preliminary hearing, unless otherwise agreed to by all parties, evidence presented at the special hearing shall be limited to the transcript of the preliminary hearing and to evidence that could not reasonably have been presented at the preliminary hearing, except that the people may recall witnesses who testified at the preliminary hearing. If the people object to the presentation of evidence at the special hearing on the grounds that the evidence could reasonably have been presented at the preliminary hearing, the defendant shall be entitled to an in camera hearing to determine that issue. The ~~superior~~ court shall base its ruling on all evidence presented at the special hearing and on the transcript of the preliminary hearing, and the findings of the magistrate shall be binding on the ~~superior~~ court as to evidence or property not affected by evidence presented at the special hearing. After the special hearing is held ~~in the superior court~~, any review thereafter desired by the defendant prior to trial shall be by means of an extraordinary writ of mandate or prohibition filed within 30 days after the denial of his or her motion at the special hearing.

(j) If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return of the property or suppression of the evidence at the preliminary hearing is granted, and if the defendant is not held to answer at the preliminary hearing, the people may file a new complaint or seek an indictment after the preliminary hearing, and the ruling at the prior hearing shall not be binding in any subsequent proceeding, except as limited by subdivision (p). In the alternative, the people may move to reinstate the complaint, or those parts of the complaint for which the defendant was not held to answer, pursuant to Section 871.5. If the property or evidence relates to a felony offense initiated by complaint and the defendant's motion for the return or suppression of the property or evidence at the preliminary hearing is granted, and if the defendant is held to answer at the preliminary hearing, the ruling at the preliminary hearing shall be binding upon the people unless, upon notice to the defendant and the court in which the preliminary hearing was held and upon the filing of an information, the people, within 15 days after the preliminary hearing, request ~~in the superior court~~ a special hearing, in which case the validity of the search or seizure shall be relitigated de novo on the basis of the evidence presented at the special hearing, and the defendant shall be entitled, as a matter of right, to a continuance of the special hearing for a period of time up to 30 days. The people may not request relitigation of the motion at a special hearing if the defendant's motion has been granted twice. If the defendant's motion is granted at a special hearing ~~in the superior court~~, the people, if they have additional evidence relating to the motion and not presented at the special hearing, shall have the right to show good cause at the trial why the evidence was not presented at the special hearing and why the prior ruling at the special hearing should not be binding, or the people may seek appellate review as provided in subdivision (*o*), unless the court, prior to the time the review is sought, has dismissed the case pursuant to Section 1385. If the case has been dismissed pursuant to Section 1385, or if the people dismiss the case on their own motion after the special hearing, the people may file a new complaint or seek an indictment after the special hearing, and the ruling at the special hearing shall not be binding in any subsequent proceeding, except as limited by subdivision (p). If the property or evidence seized relates solely to a misdemeanor complaint, and the defendant made a motion for the return of property or the suppression of evidence in the ~~municipal court or~~ superior court ~~in a county in which there is no municipal court~~ prior to trial, both

the people and defendant shall have the right to appeal any decision of that court relating to that motion to the ~~superior court of the county in which the municipal or superior court is located~~ appellate division, in accordance with the California Rules of Court provisions governing appeals to the appellate division in criminal cases. If the people prosecute review by appeal or writ to decision, or any review thereof, in a felony or misdemeanor case, it shall be binding upon them.

(k) If the defendant's motion to return property or suppress evidence is granted and the case is dismissed pursuant to Section 1385, or the people appeal in a misdemeanor case pursuant to subdivision (j), the defendant shall be released pursuant to Section 1318 if he or she is in custody and not returned to custody unless the proceedings are resumed in the trial court and he or she is lawfully ordered by the court to be returned to custody.

If the defendant's motion to return property or suppress evidence is granted and the people file a petition for writ of mandate or prohibition pursuant to subdivision (*o*) or a notice of intention to file such a petition, the defendant shall be released pursuant to Section 1318, unless (1) he or she is charged with a capital offense in a case where the proof is evident and the presumption great, or (2) he or she is charged with a noncapital offense defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1, and the court orders that the defendant be discharged from actual custody upon bail.

(*l*) If the defendant's motion to return property or suppress evidence is granted, the trial of a criminal case shall be stayed to a specified date pending the termination in the appellate courts of this state of the proceedings provided for in this section, Section 871.5, 1238, or 1466 and, except upon stipulation of the parties, pending the time for the initiation of these proceedings. Upon the termination of these proceedings, the defendant shall be brought to trial as provided by Section 1382, and, subject to the provisions of Section 1382, whenever the people have sought and been denied appellate review pursuant to subdivision (o), the defendant shall be entitled to have the action dismissed if he or she is not brought to trial within 30 days of the date of the order that is the last denial of the petition. Nothing contained in this subdivision shall prohibit a court, at the same time as it rules upon the search and seizure motion, from dismissing a case pursuant to Section 1385 when the dismissal is upon the court's own motion and is based upon an order at the special hearing granting the defendant's motion to return property or suppress evidence. In a misdemeanor case, the defendant shall be entitled to a continuance of up to 30 days if he or she intends to file a motion to return property or suppress evidence and needs this time to prepare for the special hearing on the motion. In case of an appeal by the defendant in a misdemeanor case from the denial of the motion, he or she shall be entitled to bail as a matter of right, and, in the discretion of the trial or appellate court, may be released on his or her own recognizance pursuant to Section 1318. In case of an appeal by the defendant in a misdemeanor case from the denial of the motion, the trial court may, in its discretion, grant a stay of the trial pending disposition of the appeal.

(m) The proceedings provided for in this section, and Sections 871.5, 995, 1238, and 1466 shall constitute the sole and exclusive remedies prior to conviction to test the unreasonableness of a search or seizure where the person making the motion for the return of property or the suppression of evidence is a defendant in a criminal case and the property or thing has been offered or will be offered as evidence against him or her. A defendant may seek further review of the validity of a search or seizure on appeal from a conviction in a criminal case notwithstanding the fact that the judgment of conviction is predicated upon a plea of guilty. Review on appeal may be obtained by the defendant provided that at some stage of the proceedings prior to conviction he or she has moved for the return of property or the suppression of the evidence.

(n) This section establishes only the procedure for suppression of evidence and return of property, and does not establish or alter any substantive ground for suppression of evidence or return of property. Nothing contained in this section shall prohibit a person from making a motion, otherwise permitted by law, to return property, brought on the ground that the property obtained is protected by the free speech and press provisions of the United States and California Constitutions. Nothing in this section shall be construed as altering (1) the law of standing to raise the issue of an unreasonable search or seizure; (2) the law relating to the status of the person conducting the search or seizure; (3) the law relating to the burden of proof regarding the search or seizure; (4) the law relating to the reasonableness of a search or seizure regardless of any warrant that may have been utilized; or (5) the procedure and law relating to a motion made pursuant to Section 871.5 or 995, or the procedures that may be initiated after the granting or denial of such a motion.

(*o*) Within 30 days after a defendant's motion is granted at a special hearing ~~in the superior court~~ in a felony case, the people may file a petition for writ of mandate or prohibition in the court of appeal, seeking appellate review of the ruling regarding the search or seizure motion. If the trial of a criminal case is set for a date that is less than 30 days from the granting of a defendant's motion at a special hearing ~~in the superior court~~ in a felony case, the people, if they have not filed such a petition and wish to preserve their right to file a petition, shall file in the superior court on or before the trial date or within 10 days after the special hearing, whichever occurs last, a notice of intention to file a petition and shall serve a copy of the notice upon the defendant.

(p) If a defendant's motion to return property or suppress evidence in a felony matter has been granted twice, the people may not file a new complaint or seek an indictment in order to relitigate the motion or relitigate the matter de novo at a special hearing ~~in the superior court~~ as otherwise provided by subdivision (j), unless the people discover additional evidence relating to the motion that was not reasonably discoverable at the time of the second suppression hearing. Relitigation of the motion shall be heard by the same judge who granted the motion at the first hearing if the judge is available.

(q) The amendments to this section enacted in the 1997 portion of the 1997-98 Regular Session of the Legislature shall apply to all criminal proceedings conducted on or after January 1, 1998.

Comment. Section 1538.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 3075 (amended). Board of parole commissioners

SEC. ___. Section 3075 of the Penal Code is amended to read:

3075. (a) There is in each county a board of parole commissioners, consisting of each of the following:

(1) The sheriff or, in a county with a department of corrections, the director of that department.

(2) The probation officer.

(3) A member, not a public official, to be selected from the public by the presiding judge~~, if any, or, if none, by the senior judge in point of service,~~ of the superior court.

(b) The public member of the county board of parole commissioners or his or her alternate shall be entitled to his or her actual traveling and other necessary expenses incurred in the discharge of his or her duties. In addition, the public member or his or her alternate shall be entitled to per diem at any rate that may be provided by the board of supervisors. The public member or his or her alternate shall hold office for a term of one

year and in no event for a period exceeding three consecutive years. The term shall commence on the date of appointment.

Comment. Subdivision (a)(3) of Section 3075 is amended to delete language referring to the senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Penal Code § 3076 (amended). Rules and regulations

SEC. ___. Section 3076 of the Penal Code is amended to read:

3076. (a) The board may make, establish and enforce rules and regulations adopted under this article.

(b) The board shall act at regularly called meetings at which two-thirds of the members are present, and shall make and establish rules and regulations in writing stating the reasons therefor under which any prisoner who is confined in or committed to any county jail, work furlough facility, industrial farm, or industrial road camp, or in any city jail, work furlough facility, industrial farm, or industrial road camp under a judgment of imprisonment or as a condition of probation for any criminal offense, unless the court at the time of committing has ordered that such prisoner confined as a condition of probation upon conviction of a felony not be granted parole, may be allowed to go upon parole outside of such jail, work furlough facility, industrial farm, or industrial road camp, but to remain, while on parole, in the legal custody and under the control of the board establishing the rules and regulations for the prisoner's parole, and subject at any time to be taken back within the enclosure of any such jail, work furlough facility, industrial farm, or industrial road camp.

(c) The board shall provide a complete copy of its written rules and regulations and reasons therefor and any amendments thereto to each of the judges of the ~~county's municipal and superior courts~~ superior court of the county.

The board shall provide to the persons in charge of the county's correctional facilities a copy of the sections of its written rules and regulations and any amendments thereto which govern eligibility for parole, and the name and telephone number of the person or agency to contact for additional information. Such rules and regulations governing eligibility either shall be conspicuously posted and maintained within each county correctional facility so that all prisoners have access to a copy, or shall be given to each prisoner.

Comment. Subdivision (c) of Section 3076 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 3085.1 (amended). Contra Costa County alternate public member

SEC. ___. Section 3085.1 of the Penal Code is amended to read:

3085.1. The presiding judge~~, if any, or, if none, the senior judge in point of service,~~ of the superior court in Contra Costa County may appoint an alternate for the public member who shall serve in the absence of the public member.

Comment. Section 3085.1 is amended to delete language referring to the senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Penal Code § 3607 (amended). Return of death warrant

SEC. ___. Section 3607 of the Penal Code is amended to read:

3607. After the execution, the warden must make a return upon the death warrant to the ~~county~~ clerk of the court by which the judgment was rendered, showing the time, mode, and manner in which it was executed.

Comment. Section 3607 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 4007 (amended). Transfer of prisoner

SEC. ___. Section 4007 of the Penal Code is amended to read:

4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the judge of the superior court may, by a written order filed with the ~~county~~ clerk of the court, designate the jail of a contiguous county for the confinement of any prisoner of his or her county, and may at any time modify or vacate the order.

When there are reasonable grounds to believe that a prisoner may be forcibly removed from a county jail, the sheriff may remove the prisoner to any California state prison for safekeeping and it is the duty of the warden of the prison to accept and detain the prisoner in his or her custody until his or her removal is ordered by the superior court of the county from which he or she was delivered.

Immediately upon receiving the prisoner the warden shall advise the Director of Corrections of that fact in writing.

When a county prisoner requires medical treatment necessitating hospitalization which cannot be provided at the county jail or county hospital because of lack of adequate detention facilities, and when the prisoner also presents a serious custodial problem because of his or her past or present behavior, the judge of the superior court may, on the request of the county sheriff and with the consent of the Director of Corrections, designate by written order the nearest state prison or correctional facility which would be able to provide the necessary medical treatment and secure confinement of the prisoner. The written order of the judge shall be filed with the ~~county~~ clerk of the court. The court shall immediately calendar the matter for a hearing to determine whether the order shall continue or be rescinded. The hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later. The prisoner shall not be transferred to the state prison or correctional facility prior to the hearing, except upon a determination by the physician responsible for the prisoner's health care that a medical emergency exists which requires the transfer of the prisoner to the state prison or correctional facility prior to the hearing. The prisoner shall be entitled to be present at the hearing and to be represented by counsel. The prisoner may waive his or her right to this hearing in writing at any time. If the prisoner waives his or her right to the hearing, the county sheriff shall notify the prisoner's attorney of the transfer within 48 hours, or the next business day, whichever is later. The court may modify or vacate the order at any time.

The rate of compensation for the prisoner's medical treatment and confinement within a California state prison or correctional facility shall be established by the Department of Corrections, and shall be charged against the county making the request.

When there are reasonable grounds to believe that there is a prisoner in a county jail who is likely to be a threat to other persons in the facility or who is likely to cause substantial damage to the facility, the judge of the superior court may, on the request of the county sheriff and with the consent of the Director of Corrections, designate by written order the nearest state prison or correctional facility which would be able to secure confinement of the prisoner, subject to space available. The written order of the

judge must be filed with the ~~county~~ clerk of the court. The court shall immediately calendar the matter for a hearing to determine whether the order shall continue or be rescinded. The hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later. The prisoner shall be entitled to be present at the hearing and to be represented by counsel. The court may modify or vacate that order at any time. The rate of compensation for the prisoner's confinement within a California state prison or correctional facility shall be established by the Department of Corrections and shall be charged against the county making the request.

Comment. Section 4007 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 4008 (amended). Copy of appointment

SEC. ___. Section 4008 of the Penal Code is amended to read:

4008. A copy of the appointment, certified by the ~~county~~ clerk of the court, must be served on the sheriff or keeper of the jail designated, who must receive into ~~his~~ the jail all prisoners authorized to be confined therein, pursuant to ~~the last section~~ Section 4007, and who is responsible for the safekeeping of the persons so committed, in the same manner and to the same extent as if ~~he~~ the sheriff or keeper of the jail were sheriff of the county for whose use ~~his~~ the jail is designated, and with respect to the persons so committed ~~he~~ the sheriff or keeper of the jail is deemed the sheriff of the county from which they were removed.

Comment. Section 4008 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 4009 (amended). Revocation of designation

SEC. ___. Section 4009 of the Penal Code is amended to read:

4009. When a jail is erected in a county for the use of which the designation was made, or its jail is rendered fit and safe for the confinement of prisoners, the judge of the superior court of that county must, by a written revocation, filed with the ~~county clerk thereof~~ clerk of the court, declare that the necessity for the designation has ceased, and that it is revoked.

Comment. Section 4009 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 4010 (amended). Service of copy of revocation

SEC. ___. Section 4010 of the Penal Code is amended to read:

4010. The ~~county~~ clerk of the court must immediately serve a copy of the revocation upon the sheriff of the county, who must thereupon remove the prisoners to the jail of the county from which the removal was had.

Comment. Section 4010 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 4012 (amended). Pestilence or contagious disease

SEC. ___. Section 4012 of the Penal Code is amended to read:

4012. When a pestilence or contagious disease breaks out in or near a jail, and the physician thereof certifies that it is liable to endanger the health of the prisoners, the county judge may, by a written appointment, designate a safe and convenient place in the county, or the jail in a contiguous county, as the place of their confinement. The appointment must be filed in the office of the ~~county~~ clerk of the court, and authorize the sheriff to remove the prisoners to the place or jail designated, and there confine them until they can be safely returned to the jail from which they were taken.

Comment. Section 4012 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 4024.1 (amended). Accelerated release where inmate count exceeds bed capacity

SEC. ___. Section 4024.1 of the Penal Code is amended to read:

4024.1. (a) The sheriff, chief of police, or any other person responsible for a county or city jail may apply to the presiding judge of the ~~municipal or~~ superior court to receive general authorization for a period of 30 days to release inmates pursuant to the provisions of this section.

(b) Whenever, after being authorized by a court pursuant to subdivision (a), the actual inmate count exceeds the actual bed capacity of a county or city jail, the sheriff, chief of police, or other person responsible for such county or city jail may accelerate the release, discharge, or expiration of sentence date of sentenced inmates up to a maximum of five days.

(c) The total number of inmates released pursuant to this section shall not exceed a number necessary to balance the inmate count and actual bed capacity.

(d) Inmates closest to their normal release, discharge, or expiration of sentence date shall be given accelerated release priority.

(e) The number of days that release, discharge, or expiration of sentence is accelerated shall in no case exceed 10 percent of the particular inmate's original sentence, prior to the application thereto of any other credits or benefits authorized by law.

Comment. Subdivision (a) of Section 4024.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 4112 (amended). Resolution proclaiming establishment of industrial farm or road camp

SEC. ___. Section 4112 of the Penal Code is amended to read:

4112. When land has been acquired and such buildings and structures erected and improvements made as may be immediately necessary for the carrying out of the purposes of this article or arrangements have been made for an industrial road camp or camps, the board of supervisors shall adopt a resolution proclaiming that an industrial farm or road camp has been established in the county and designating a day on and after which persons will be admitted to such farm or camp. Certified copies of the resolution shall be forwarded by the clerk of the board of supervisors to each ~~municipal~~ superior court judge in the county ~~or each superior court judge in a county in which there is no municipal court~~.

Comment. Section 4112 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 4301 (amended). Membership of county advisory committee on adult detention

SEC. ___. Section 4301 of the Penal Code is amended to read:

4301. There shall be 6, 9, or 12 members of the committee. One-third shall be appointed by the board of supervisors~~;~~, one-third by the sheriff, and one-third by the presiding ~~or senior~~ judge of the superior court. Of the members appointed by the presiding judge ~~of the superior court~~, one shall be a member of the State Bar.

Comment. Section 4301 is amended to delete language referring to the senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Penal Code § 4303 (amended). Committee member expenses

SEC. ___. Section 4303 of the Penal Code is amended to read:

4303. Members of the committee shall serve without compensation, but shall be allowed their reasonable expenses as approved by the presiding ~~or senior~~ judge of the superior court. Such expenses shall be a charge upon the county in which the court has jurisdiction, and shall be paid out of the county treasury upon a written order of the presiding judge of the superior court directing the county auditor to draw ~~his~~ a warrant upon the county treasurer for the specified amount of such expenses. All orders by the ~~superior court~~ presiding judge upon the county treasurer shall be filed in duplicate with the county board of supervisors and sheriff.

Comment. Section 4303 is amended to delete language referring to the senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Penal Code § 4304 (amended). Committee report

SEC. ___. Section 4304 of the Penal Code is amended to read:

4304. The committee shall file a report within 90 days after the thirty-first day of December of the calendar year for which such report is made, copies of which shall be filed with the county board of supervisors, the presiding ~~or senior~~ judge, the sheriff, the Board of Corrections, and the Attorney General.

Comment. Section 4304 is amended to delete language referring to the senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Penal Code § 4852.18 (amended). Certificate of rehabilitation

SEC. ___. Section 4852.18 of the Penal Code is amended to read:

4852.18. The Board of Prison Terms shall furnish to the ~~county~~ clerk of the superior court of each county a set of sample forms for a petition for certificate of rehabilitation and pardon, a notice of filing of petition for certificate of rehabilitation and pardon, and a certificate of rehabilitation. The ~~county~~ clerk of the court shall have a sufficient number of these forms printed to meet the needs of the people of ~~his~~ the county, and ~~he~~ shall make these forms available at no charge to persons requesting them.

Comment. Section 4852.18 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Penal Code § 6031.1 (amended). Biennial inspections of local detention facilities

SEC. ___. Section 6031.1 of the Penal Code is amended to read:

6031.1. Inspections of local detention facilities shall be made biennially. Inspections of privately operated work furlough facilities and programs shall be made biennially unless the work furlough administrator requests an earlier inspection. Inspections shall include, but not be limited to, the following:

(a) Health and safety inspections conducted pursuant to Section 101045 of the Health and Safety Code.

(b) Fire suppression preplanning inspections by the local fire department.

(c) Security, rehabilitation programs, recreation, treatment of persons confined in the facilities, and personnel training by the staff of the Board of Corrections.

Reports of each facility's inspection shall be furnished to the official in charge of the local detention facility or, in the case of a privately operated facility, the work furlough administrator, the local governing body, the grand jury, and the presiding ~~or sole~~ judge of the superior court in the county where the facility is located. These reports shall set forth the areas wherein the facility has complied and has failed to comply with the minimum standards established pursuant to Section 6030.

Comment. Section 6031.1 is amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Gov't Code § 69508.5 (presiding judge).

Penal Code § 13151 (amended). Disposition report

SEC. ___. Section 13151 of the Penal Code is amended to read:

13151. The superior ~~or municipal~~ court that disposes of a case for which an arrest was required to be reported to the Department of Justice pursuant to Section 13150 or for which fingerprints were taken and submitted to the Department of Justice by order of the court shall assure that a disposition report of such case containing the applicable data elements enumerated in Section 13125, or Section 13151.1 if such disposition is one of dismissal, is furnished to the Department of Justice within 30 days according to the procedures and on a format prescribed by the department. The court shall also furnish a copy of such disposition report to the law enforcement agency having primary jurisdiction to investigate the offense alleged in the complaint or accusation. Whenever a

court shall order any action subsequent to the initial disposition of a case, the court shall similarly report such proceedings to the department.

Comment. Section 13151 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Penal Code § 14154 (amended). Referral of misdemeanor case to community conflict resolution program

SEC. ___. Section 14154 of the Penal Code is amended to read:

14154. In a county in which the district attorney has established a community conflict resolution program, ~~the municipal court or~~ the superior court ~~in a county in which there is no municipal court~~ may, with the consent of the district attorney and the defendant, refer misdemeanor cases, including those brought by a city prosecutor, to that program. In determining whether to refer a case to the community conflict resolution program, the court shall consider, but is not limited to considering, all of the following:

(a) The factors listed in Section 14152.

(b) Any other referral criteria established by the district attorney for the program.

The court shall not refer any case to the community conflict resolution program which was previously referred to that program by the district attorney.

Comment. Section 14154 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

PROBATE CODE

Prob. Code § 1513 (amended). Investigation and report on proposed guardianship

SEC. ___. Section 1513 of the Probate Code is amended to read:

1513. (a) Unless waived by the court, a court investigator, probation officer, or domestic relations investigator may make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians.

(b) The report shall be read and considered by the court prior to ruling on the petition for guardianship, and shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(c) If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a report is provided to the court in which the guardianship proceeding is pending.

(d) The report authorized by this section is confidential and shall only be made available to persons who have been served in the proceedings or their attorneys. The ~~county~~ clerk of the court shall make provisions for the limitation of the report exclusively to persons entitled to its receipt.

(e) For the purpose of writing the report authorized by this section, the person making the investigation and report shall have access to the proposed ward's school records, probation records, and public and private social services records, and to an oral or written summary of the proposed ward's medical records and psychological records prepared by any physician, psychologist, or psychiatrist who made or who is maintaining those records. The physician, psychologist, or psychiatrist shall be available to clarify information regarding these records pursuant to the investigator's responsibility to gather and provide information for the court.

(f) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

(g) For purposes of this section, a "relative" means a person who is a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons, even after the marriage has been terminated by death or dissolution.

Comment. Subdivision (d) of Section 1513 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Prob. Code § 1821 (amended). Petition and supplemental information

SEC. ___. Section 1821 of the Probate Code is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the name, address, and telephone number of the proposed conservator and the name, address, and telephone number of the proposed conservatee, and state the reasons why a conservatorship is necessary. Unless the petitioner is a bank or other entity authorized to conduct the business of a trust company, the petitioner shall also file supplemental information as to why the appointment of a conservator is required. The supplemental information to be submitted shall include a brief statement of facts addressed to each of the following categories:

(1) The inability of the proposed conservatee to properly provide for his or her needs for physical health, food, clothing, and shelter.

(2) The location of the proposed conservatee's residence and the ability of the proposed conservatee to live in the residence while under conservatorship.

(3) Alternatives to conservatorship considered by the petitioner and reasons why those alternatives are not available.

(4) Health or social services provided to the proposed conservatee during the year preceding the filing of the petition, when the petitioner has information as to those services.

(5) The inability of the proposed conservatee to substantially manage his or her own financial resources, or to resist fraud or undue influence.

The facts required to address the categories set forth in paragraphs (1) to (5), inclusive, shall be set forth by the petitioner when he or she has knowledge of the facts or by the declarations or affidavits of other persons having knowledge of those facts.

Where any of the categories set forth in paragraphs (1) to (5), inclusive, are not applicable to the proposed conservatorship, the petitioner shall so indicate and state on the supplemental information form the reasons therefor.

The Judicial Council shall develop a supplemental information form for the information required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or organizations approved by the Judicial Council, who represent public conservators, court investigators, the State Bar, specialists with experience in performing assessments and coordinating community-based services, and legal services for the elderly and disabled.

The supplemental information form shall be separate and distinct from the form for the petition. The supplemental information shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this supplemental information or who have appeared in the proceedings, their attorneys, and the court. The court shall have discretion at any other time to release the supplemental information to other persons if it would serve the interests of the conservatee. The ~~county~~ clerk <u>of the court</u> shall make provision for limiting disclosure of the supplemental information exclusively to persons entitled thereto under this section.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse or domestic partner, and of the relatives of the proposed conservatee within the second degree. If no spouse or domestic partner of the proposed conservatee or relatives of the proposed conservatee within the second degree are known to the petitioner, the petition shall set forth, so far as they are known to the petitioner, the names and addresses of the following persons who, for the purposes of Section 1822, shall all be deemed to be relatives:

(1) A spouse or domestic partner of a predeceased parent of a proposed conservatee.

(2) The children of a predeceased spouse or domestic partner of a proposed conservatee.

(3) The siblings of the proposed conservatee's parents, if any, but if none, then the natural and adoptive children of the proposed conservatee's parents' siblings.

(4) The natural and adoptive children of the proposed conservatee's siblings.

(c) If the petition is filed by a person other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor, or the agent of a creditor or debtor, of the proposed conservatee.

(d) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans

Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed conservatee.

(f) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(g) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(h) In the case of an allegedly developmentally disabled adult, the petition shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the requirements of this section, and conservatorships filed pursuant to Article 7.5 (commencing with Section 416) of Part 1 of Division 1 of the Health and Safety Code are exempt from providing the supplemental information required by this section, so long as the guidelines adopted by the State Department of Developmental Services for regional centers require the same information that is required pursuant to this section.

Comment. Subdivision (a)(5) of Section 1821 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Prob. Code § 1826 (amended). Court investigator's duties

SEC. ___. Section 1826 of the Probate Code is amended to read:

1826. Regardless of whether the proposed conservatee attends the hearing, the court investigator shall do all of the following:

(a) Interview the proposed conservatee personally.

(b) Inform the proposed conservatee of the contents of the citation, of the nature, purpose, and effect of the proceeding, and of the right of the proposed conservatee to oppose the proceeding, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(c) Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend the hearing.

(d) Review the allegations of the petition as to why the appointment of the conservator is required and, in making his or her determination, do the following:

(1) Refer to the supplemental information form submitted by the petitioner and consider the facts set forth in the form that address each of the categories specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1821.

(2) Consider, to the extent practicable, whether he or she believes the proposed conservatee suffers from any of the mental function deficits listed in subdivision (a) of Section 811 that significantly impairs the proposed conservatee's ability to understand and appreciate the consequences of his or her actions in connection with any of the functions described in subdivision (a) or (b) of Section 1801 and identify the observations that support that belief.

(e) Determine whether the proposed conservatee wishes to contest the establishment of the conservatorship.

(f) Determine whether the proposed conservatee objects to the proposed conservator or prefers another person to act as conservator.

(g) Determine whether the proposed conservatee wishes to be represented by legal counsel and, if so, whether the proposed conservatee has retained legal counsel and, if not, the name of an attorney the proposed conservatee wishes to retain.

(h) Determine whether the proposed conservatee is capable of completing an affidavit of voter registration.

(i) If the proposed conservatee has not retained legal counsel, determine whether the proposed conservatee desires the court to appoint legal counsel.

(j) Determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the proposed conservatee in any case where the proposed conservatee does not plan to retain legal counsel and has not requested the appointment of legal counsel by the court.

(k) Report to the court in writing, at least five days before the hearing, concerning all of the foregoing, including the proposed conservatee's express communications concerning both of the following:

(1) Representation by legal counsel.

(2) Whether the proposed conservatee is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(*l*) Mail, at least five days before the hearing, a copy of the report referred to in subdivision (k) to all of the following:

(1) The attorney, if any, for the petitioner.

(2) The attorney, if any, for the proposed conservatee.

(3) Any other persons as the court orders.

(m) The court investigator has discretion to release the report required by this section to the public conservator, interested public agencies, and the long-term care ombudsman.

(n) The report required by this section is confidential and shall be made available only to parties, persons given notice of the petition who have requested this report or who have appeared in the proceedings, their attorneys, and the court. The court has discretion at any other time to release the report, if it would serve the interests of the conservatee. The ~~county~~ clerk <u>of the court</u> shall provide for the limitation of the report exclusively to persons entitled to its receipt.

(*o*) This section does not apply to a proposed conservatee who has personally executed the petition for conservatorship, or one who has nominated his or her own conservator, if he or she attends the hearing.

(p) If the court investigator has performed an investigation within the preceding six months and furnished a report thereon to the court, the court may order, upon good cause shown, that another investigation is not necessary or that a more limited investigation may be performed.

Comment. Subdivision (n) of Section 1826 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Prob. Code § 1827.5 (amended). Assessment of proposed limited conservatee

SEC. ___. Section 1827.5 of the Probate Code is amended to read:

1827.5. (a) In the case of any proceeding to establish a limited conservatorship for a person with developmental disabilities, within 30 days after the filing of a petition for limited conservatorship, a proposed limited conservatee, with his or her consent, shall be assessed at a regional center as provided in Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code. The regional center shall submit a written report of its findings and recommendations to the court.

(b) In the case of any proceeding to establish a general conservatorship for a person with developmental disabilities, the regional center, with the consent of the proposed conservatee, may prepare an assessment as provided in Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code. If an assessment is prepared, the regional center shall submit its findings and recommendations to the court.

(c) A report prepared under subdivision (a) or (b) shall include a description of the specific areas, nature, and degree of disability of the proposed conservatee or proposed limited conservatee. The findings and recommendations of the regional center are not binding upon the court. In a proceeding where the petitioner is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities or a spouse or employee of a provider, is not the natural parent of the proposed conservatee or proposed limited conservatee, and is not a public entity, the regional center shall include a recommendation in its report concerning the suitability of the petitioners to meet the needs of the proposed conservatee or proposed limited conservatee.

(d) At least five days before the hearing on the petition, the regional center shall mail a copy of the report referred to in subdivision (a) to all of the following:

(1) The proposed limited conservatee.

(2) The attorney, if any, for the proposed limited conservatee.

(3) If the petitioner is not the proposed limited conservatee, the attorney for the petitioner or the petitioner if the petitioner does not have an attorney.

(4) Such other persons as the court orders.

(e) The report referred to in subdivisions (a) and (b) shall be confidential and shall be made available only to parties listed in subdivision (d) unless the court, in its discretion, determines that the release of the report would serve the interests of the conservatee who is developmentally disabled. The ~~county~~ clerk <u>of the court</u> shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

Comment. Subdivision (e) of Section 1827.5 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Prob. Code § 1851 (amended). Review by court investigator

SEC. ___. Section 1851 of the Probate Code is amended to read:

1851. (a) When court review is required, the court investigator shall visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee. The court investigator shall determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the present conservator is acting in the best interests of the conservatee, and whether the conservatee is capable of completing an affidavit of voter registration. If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine whether the present condition of the conservatee is such that the terms of the order should be modified or the order revoked.

(b) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court.

(c) In the case of a limited conservatee, the court investigator shall make a recommendation regarding the continuation or termination of the limited conservatorship.

(d) The court investigator may personally visit the conservator and other persons as may be necessary to determine whether the present conservator is acting in the best interests of the conservatee.

(e) The report required by this section shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the interests of the conservatee. The ~~county~~ clerk <u>of the court</u> shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

Comment. Subdivision (e) of Section 1851 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Prob. Code § 15688 (amended). Compensation of public guardian

SEC. ___. Section 15688 of the Probate Code is amended to read:

15688. Notwithstanding any other provision of this article and the terms of the trust, a public guardian who is appointed as a trustee of a trust pursuant to Section 15660.5 shall be paid from the trust property for all of the following:

(a) Reasonable expenses incurred in the administration of the trust.

(b) Compensation for services of the public guardian and the attorney of the public guardian, and for the filing and processing services of the ~~county~~ clerk <u>of the court</u> in the amount the court determines is just and reasonable.

(c) An annual bond fee in the amount of twenty-five dollars ($25) plus one-fourth of 1 percent of the amount of the trust assets greater than ten thousand dollars ($10,000). The amount charged shall be deposited in the county treasury.

Comment. Subdivision (b) of Section 15688 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

PUBLIC RESOURCES CODE

Pub. Res. Code § 14591.5 (amended). Enforcement of judgments

SEC. ___. Section 14591.5 of the Public Resources Code is amended to read:

14591.5. After the time for judicial review under Section 11523 of the Government Code has expired, the department may apply to ~~the clerk of~~ the small claims court~~,~~ ~~municipal court,~~ or superior court, depending on the jurisdictional amount and any other remedy sought, in the county where the penalties, restitution, or other remedy was imposed by the department, for a judgment to collect any unpaid civil penalties or restitution or to enforce any other remedy provided by this division. The application, which shall include a certified copy of the final agency order or decision, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall have the same force and effect as, and shall be subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court ~~in which it is entered~~. The court shall make enforcement of the judgment a priority.

Comment. Section 14591.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. The small claims court is a division of the superior court. Code Civ. Proc. § 116.210 (small claims division).

PUBLIC UTILITIES CODE

Pub. Util. Code § 5411.5 (amended). Seizure or impoundment of vehicle

SEC. ___. Section 5411.5 of the Public Utilities Code is amended to read:

5411.5. Whenever a peace officer arrests a person for a violation of Section 5411 involving the operation of a charter-party carrier of passengers without a valid certificate or permit at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the peace officer may impound and retain possession of the vehicle used in violation of Section 5411.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of Section 5411 without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion ~~in municipal court, or~~ in superior court ~~in a county in which there is no municipal court,~~ for the immediate return of the vehicle on

the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this section is a limited civil case.

No peace officer, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

Comment. Section 5411.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

REVENUE AND TAXATION CODE

Rev. & Tax. Code § 19707 (amended). Venue

SEC. ___. Section 19707 of the Revenue and Taxation Code is amended to read:

19707. The place of trial for the offenses enumerated in this chapter shall be in the county of residence or principal place of business of the defendant or defendants at the time of commission of the offense. However, if the defendant or defendants had no residence or principal place of business in this state at the time of commission of the offense, the trial shall be held in the County of Sacramento.

In a criminal case charging a defendant or defendants with committing an offense enumerated in this chapter, the place of trial may be as set forth in this section, or as provided for in ~~Sections 1462 and~~ Section 1462.2 or Chapter 1 (commencing with Section 777) of Title 3 of Part 2 of the Penal Code.

Comment. Section 19707 is amended to reflect the repeal of Penal Code Section 1462, concerning the jurisdiction of the municipal and superior courts.

STREETS AND HIGHWAYS CODE

Sts. & Hy. Code § 5419 (amended). Notice to street superintendent

SEC. ___. Section 5419 of the Streets and Highways Code is amended to read:

5419. Upon the entry of judgment or dismissal of the action the ~~county~~ clerk of the court shall forthwith mail to the street superintendent of the city having jurisdiction over the proceeding in which the assessment was levied, a certified copy of the judgment or other evidence sufficient to advise the street superintendent of the judgment of the court in the action.

Comment. Section 5419 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Sts. & Hy. Code § 6619 (amended). Notice to treasurer

SEC. ___. Section 6619 of the Streets and Highways Code is amended to read:

6619. A written notice of the pendency of any action for recovery on a bond shall be filed with the treasurer. After the filing of such notice the treasurer shall not receive any money on account of the bond and ~~he~~ shall have no authority to cancel the entries on the

bond in ~~his~~ the register or give a discharge of the bond without the written consent of the owner thereof until judgment has been rendered in the action or until it has been dismissed.

Upon the entry of judgment or dismissal of the action the ~~county~~ clerk of the court shall forthwith mail to the treasurer a certified copy of the judgment or other evidence sufficient to advise ~~him~~ the treasurer of the judgment of the court in the action.

Comment. Section 6619 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Sts. & Hy. Code § 6621 (amended). Decree of foreclosure

SEC. ___. Section 6621 of the Streets and Highways Code is amended to read:

6621. Whenever a bond is foreclosed pursuant to this chapter, the decree of foreclosure shall direct the ~~county~~ clerk of the court to deliver the bond sued upon to the treasurer of the city which issued said bond together with a memorandum setting forth the title and number of the action and the fact that the bond has been foreclosed.

Comment. Section 6621 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Sts. & Hy. Code § 6622 (amended). Certificate of cancellation

SEC. ___. Section 6622 of the Streets and Highways Code is amended to read:

6622. The treasurer shall cancel the bond upon ~~his~~ the records and deliver to the ~~county~~ clerk of the court a receipt substantially in the following form:

"Certificate of Cancellation of Street Improvement Bond Series (designating it), in the City (or County) of (naming it).

$_____/100 No._____

I, ____, Treasurer of the City (or County) of ____ do hereby certify that I have received the above bond from the ~~county~~ clerk of the Superior Court of ____ (naming county) in that certain foreclosure action entitled ____ vs. ____ No.____, Superior Court of ____ County; and I have this day canceled said bond on my records, pursuant to the order of the court made in said case.

Dated at _____, this ____ day of _____, ~~19~~ 20 __.

_____

Treasurer of the City (or County) of _____

By _____

Deputy"

Comment. Section 6622 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§

69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Sts. & Hy. Code § 6623 (amended). Entry of judgment or decree

SEC. ___. Section 6623 of the Streets and Highways Code is amended to read:

6623. The ~~county~~ clerk of the court shall enter the judgment or decree of foreclosure in the action upon the delivery of the certificate of cancellation ~~to him~~.

Comment. Section 6623 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Sts. & Hy. Code § 8266 (amended). Filing complaint

SEC. ___. Section 8266 of the Streets and Highways Code is amended to read:

8266. The proceeding is instituted by filing with the ~~county~~ clerk of the court a complaint setting forth:

(a) The name of the district.

(b) Its exterior boundaries.

(c) The date of its organization.

(d) A prayer that the district be judged legally formed under this part.

Comment. Section 8266 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

UNEMPLOYMENT INSURANCE CODE

Unemp. Ins. Code § 1815 (amended). Unemployment contributions judgment

SEC. ___. Section 1815 of the Unemployment Insurance Code is amended to read:

1815. If any employing unit is delinquent in the payment of any contributions, penalties or interest provided for in this division, the director may, not later than 10 years after the payment became delinquent or within 10 years after the last entry of a judgment under this article or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, file in the Office of the ~~County~~ Clerk of the Superior Court of Sacramento County, or with the ~~county~~ clerk of the superior court of the county in which the employer has ~~his~~ its principal place of business, a certificate specifying the amount of the contributions, interest and penalty due and the name and last known address of the employer liable therefor. The certificate shall also contain a statement that the director has complied with all the provisions of this division in relation to the computation and levy of the contributions, interest and penalty, and a request that judgment be entered against the employer in the amount set forth in the certificate. The ~~county~~ clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the employer in the amount set forth in the certificate. Such

judgment may be filed by the ~~county~~ clerk in a looseleaf book entitled "Unemployment Contributions Judgments."

Comment. Section 1815 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

VEHICLE CODE

Veh. Code § 9805 (amended). Certificate of amount due

SEC. ___. Section 9805 of the Vehicle Code is amended to read:

9805. (a) The department may file in the office of the ~~county~~ clerk <u>of the superior court</u> of Sacramento County, or any other county, a certificate specifying the amount of any fee, tax, penalty, and collection cost due, the name and last known address of the individual, company, or corporation liable for the amount due, and the fact that the department has complied with all the provisions of this division in the computation of the amount due, and a request that judgment be entered against the individual, company, or corporation in the amount of the fee, tax, penalty, and collection cost set forth in the certificate if the fee, tax, penalty, or collection cost constitutes either of the following:

(1) A lien under this division on the vehicle on which it is due is not paid when due, and there is evidence that the vehicle has been operated in violation of this code or any regulations adopted pursuant to this code.

(2) A lessee liability as provided in Section 10879 of the Revenue and Taxation Code.

(b) Prior to the filing of the certificate, the department shall, by mail, notify the individual, company, or corporation of the amount which is due and of the opportunity for a hearing as provided in this subdivision. At the request of the individual, company, or corporation, the department shall conduct a hearing pursuant to Section 9801, at which it shall be determined whether the claimed fee, tax, penalty, or collection cost in the amount claimed by the department is due and constitutes a lien on the vehicle, and whether the individual, company, or corporation is liable therefor.

(c) If no hearing is requested within 15 days after mailing the notice required by subdivision (b), the certificate required by subdivision (b) may be filed.

Comment. Subdivision (a) of Section 9805 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Veh. Code § 9806 (amended). Judgment for amount due

SEC. ___. Section 9806 of the Vehicle Code is amended to read:

9806. The ~~county~~ clerk <u>of the court</u>, immediately upon the filing of the certificate specified in Section 9805, shall enter a judgment for the people of the State of California against the individual, company, or corporation in the amount of any fee, tax, penalty,

and collection cost set forth in the certificate. The ~~county~~ clerk may file the judgment in a looseleaf book entitled "Department of Motor Vehicles Registration Judgments."

Comment. Section 9806 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Veh. Code § 9872.1 (amended). Vessel or component part with hull identification number removed, defaced, altered or destroyed

SEC. ___. Section 9872.1 of the Vehicle Code is amended to read:

9872.1. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or her possession any vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, unless the vessel or component part has attached thereto a hull identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever a vessel, or component part thereof, from which the hull identification number has been removed, defaced, altered, or destroyed, and which does not have attached thereto an assigned or approved number as described in subdivision (a), comes into the custody of a peace officer, the seized vessel or component part is subject, in accordance with the procedures specified in this section, to impoundment and to such disposition as may be provided by order of a court having jurisdiction. This subdivision does not apply with respect to a seized vessel or component part used as evidence in any criminal action or proceeding.

(c) Whenever a vessel or component part described in subdivision (a) comes into the custody of a peace officer, any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the department, shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the seizure, of the date, time, and place of the hearing required in subdivision (e). The notice shall contain the information specified in subdivision (d).

(d) Whenever a peace officer seizes a vessel or component part as provided in subdivision (b), any person from whom the property was seized shall be provided a notice of impoundment of the vessel or component part which shall serve as a receipt and contain the following information:

(1) Name and address of person from whom the property was seized.

(2) A statement that the vessel or component part seized has been impounded for investigation of a violation of this section and that the property will be released upon a determination that the hull identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vessel or component part, provided that no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vessel or component part shall take place in the proper court.

(3) A statement that any person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the department, will receive written notification of the date, time, and place of the hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

(4) Name and address of the law enforcement agency where evidence of ownership of the vessel or component part may be presented.

(5) A statement of the contents of this section.

(e) A hearing on the disposition of the property shall be held by ~~the municipal court, or by~~ the superior court ~~in a county in which there is no municipal court,~~ within 60 days after the seizure. The hearing shall be before the court without a jury. A proceeding under this section is a limited civil case.

(1) If the evidence reveals either that the hull identification number has not been removed, altered, or destroyed or that the hull identification number has been removed, altered, or destroyed but satisfactory evidence of ownership has been presented to the seizing agency or court, the property shall be released to the person entitled thereto.

(2) If the evidence reveals that the hull identification number has been removed, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the property shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency shall have the burden of establishing that the hull identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) Nothing in this section precludes the return of a seized vessel or component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, upon the assignment of an identification number to the vessel or component part by the department.

Comment. Subdivision (e) of Section 9872.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 10751 (amended). Vehicle or component part with manufacturer's serial or identification number removed, defaced, altered or destroyed

SEC. ___. Section 10751 of the Vehicle Code is amended to read:

10751. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or her possession, any vehicle, or component part thereof, from which any serial or identification number, including, but not limited to, any number used for registration purposes, that is affixed by the manufacturer to the vehicle or component part, in whatever manner deemed proper by the manufacturer, has been removed, defaced, altered, or destroyed, unless the vehicle or component part has attached thereto an identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever a vehicle described in subdivision (a), including a vehicle assembled with any component part which is in violation of subdivision (a), comes into the custody of a peace officer, it shall be destroyed, sold, or otherwise disposed of under the conditions as provided in an order by the court having jurisdiction. No court order providing for disposition shall be issued unless the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles, are provided a postseizure hearing by the court having jurisdiction within 90 days after the seizure. This subdivision shall not apply with respect to a seized vehicle or component part used as evidence in any criminal action or proceeding. Nothing in this section shall, however, preclude the return of a seized vehicle or a component part to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, upon the assignment of an identification number to the vehicle or component part by the department.

(c) Whenever a vehicle described in subdivision (a) comes into the custody of a peace officer, the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles,

shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the seizure, of the date, time, and place of the hearing required in subdivision (b). The notice shall contain the information specified in subdivision (d).

(d) Whenever a peace officer seizes a vehicle described in subdivision (a), the person from whom the property was seized shall be provided a notice of impoundment of the vehicle which shall serve as a receipt and contain the following information:

(1) Name and address of person from whom the property was seized.

(2) A statement that the vehicle seized has been impounded for investigation of a violation of Section 10751 of the California Vehicle Code and that the property will be released upon a determination that the serial or identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vehicle or a component part, if no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vehicle shall take place in the proper court.

(3) A statement that the person from whom the property was seized, and all claimants to the property whose interest or title is on registration records in the Department of Motor Vehicles, will receive written notification of the date, time, and place of the hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

(4) Name and address of the law enforcement agency where evidence of ownership of the vehicle or component part may be presented.

(5) A statement of the contents of Section 10751 of the Vehicle Code.

(e) A hearing on the disposition of the property shall be held by ~~the municipal court, or by~~ the superior court ~~in a county in which there is no municipal court~~, within 90 days after the seizure. The hearing shall be before the court without a jury. A proceeding under this section is a limited civil case.

(1) If the evidence reveals either that the serial or identification number has not been removed, defaced, altered, or destroyed or that the number has been removed, defaced, altered, or destroyed but satisfactory evidence of ownership has been presented to the seizing agency or court, the property shall be released to the person entitled thereto. Nothing in this section precludes the return of the vehicle or a component part to a good faith purchaser following presentation of satisfactory evidence of ownership thereof upon the assignment of an identification number to the vehicle or component part by the department.

(2) If the evidence reveals that the identification number has been removed, defaced, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the vehicle shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency has the burden of establishing that the serial or identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) This section does not apply to a scrap metal processor engaged primarily in the acquisition, processing, and shipment of ferrous and nonferrous scrap, and who receives dismantled vehicles from licensed dismantlers, licensed junk collectors, or licensed junk dealers as scrap metal for the purpose of recycling the dismantled vehicles for their metallic content, the end product of which is the production of material for recycling and remelting purposes for steel mills, foundries, smelters, and refiners.

Comment. Subdivision (e) of Section 10751 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 11102.1 (amended). Return of deposit of driving school licensee

SEC. ___. Section 11102.1 of the Vehicle Code is amended to read:

11102.1. If a deposit is given instead of the bond required by Section 11102:

(a) The director may order the deposit returned at the expiration of three years from the date a driving school licensee has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

Comment. Subdivision (a) of Section 11102.1 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 11203 (amended). Deposit in lieu of bond

SEC. ___. Section 11203 of the Vehicle Code is amended to read:

11203. In lieu of the bond otherwise required by paragraph (3) of subdivision (a) of Section 11202, the applicant may make a deposit pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure. The director may order the deposit returned at the expiration of three years from the date a traffic violator school licensee has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A ~~municipal or~~ superior court may, upon petition, order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the court that there are no outstanding claims against the deposit. If either the director, department, or state is a defendant in any civil action instituted to recover all or any part of the deposit, or any civil action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the licensee recoverable from the deposit.

Comment. Section 11203 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 11301.5 (amended). Return of deposit of vehicle verifier

SEC. ___. Section 11301.5 of the Vehicle Code is amended to read:

11301.5. If a deposit is given instead of the bond required by Section 11301:

(a) The Director of Motor Vehicles may order the refund of the deposit three years from the date a vehicle verifier has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of three years from the date a vehicle verifier has ceased to be licensed if there is evidence satisfactory to the court that there are no outstanding claims against the deposit.

(b) If the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or

state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

Comment. Subdivision (a) of Section 11301.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 11710.2 (amended). Return of deposit of dealer

SEC. ___. Section 11710.2 of the Vehicle Code is amended to read:

11710.2. If a deposit is given instead of the bond required by Section 11710 both of the following apply:

(a) The director may order the deposit returned at the expiration of three years from the date an applicant for a dealer's license who has operated a business of selling vehicles under a temporary permit has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

Comment. Subdivision (a) of Section 11710.2 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 27362 (amended). Sale or installation of nonconforming child restraint system

SEC. ___. Section 27362 of the Vehicle Code is amended to read:

27362. (a) No manufacturer, wholesaler, or retailer shall sell, offer for sale, or install in any motor vehicle any child passenger restraint system not conforming to all applicable federal motor vehicle safety standards on the date of sale or installation. Responsibility for compliance with this section shall rest with the individual selling, offering for sale, or installing the system. Every person who violates this section is guilty of a misdemeanor and shall be punished as follows:

(1) Upon a first conviction, by a fine not exceeding four hundred dollars ($400) or by imprisonment in the county jail for a period of not more than 90 days, or both.

(2) Upon a second or subsequent conviction, by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for a period of not more than 180 days, or both.

(b) The fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to county health departments where the violation occurred, to be used for a child passenger restraint low-cost purchase or loaner program which shall include, but not be limited to, education on the proper installation and use of a child passenger restraint system. The county health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the ~~municipal~~ superior court ~~system~~ to facilitate the transfer of funds to the program. The county may contract for the implementation of the program. Prior to obtaining possession of a child passenger restraint system pursuant to this section, a person shall receive information relating to the importance of utilizing that system.

As the proceeds from fines become available, county health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties, including a semiannual verification that all programs listed are in existence. Each county shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

Comment. Subdivision (b)(1) of Section 27362 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 40256 (amended). Judicial review of decision on toll evasion

SEC. ___. Section 40256 of the Vehicle Code is amended to read:

40256. (a) Within 20 days after the mailing of the final decision described in subdivision (b) of Section 40255, the contestant may seek review by filing an appeal to ~~the municipal court, or to~~ the superior court ~~in a county in which there is no municipal court~~, where the same shall be heard de novo, except that the contents of the processing agency's file in the case on appeal shall be received in evidence. A copy of the notice of toll evasion violation shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the contestant. For purposes of computing the 20-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited civil case.

(b) ~~The~~ Notwithstanding Section 72055 of the Government Code, the fee for filing the notice of appeal shall be twenty-five dollars ($25). If the appellant prevails, this fee, together with any deposit of toll evasion penalty, shall be promptly refunded by the processing agency in accordance with the judgment of the court.

(c) The conduct of the hearing on appeal under this section is a subordinate judicial duty which may be performed by commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(d) If no notice of appeal of the processing agency's decision is filed within the period set forth in subdivision (a), the decision shall be deemed final.

(e) If the toll evasion penalty has not been deposited and the decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the penalty under Section 40267.

Comment. Subdivision (a) of Section 40256 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Subdivision (b) is amended to make clear that the fee for seeking review pursuant to this section is the amount specified in this section ($25), not the usual fee for filing the first paper in a limited civil case.

Veh. Code § 40502 (amended). Place to appear

SEC. ___. Section 40502 of the Vehicle Code is amended to read:

40502. The place specified in the notice to appear shall be any of the following:

(a) Before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made.

(b) Upon demand of the person arrested, before a judge or other magistrate having jurisdiction of the offense at the county seat of the county in which the offense is alleged to have been committed. This subdivision applies only if the person arrested resides, or the person's principal place of employment is located, closer to the county seat than to the court or other magistrate nearest or most accessible to the place where the arrest is made.

(c) Before a person authorized to receive a deposit of bail.

The clerk and deputy clerks of ~~the municipal court or of~~ the superior court ~~in a county in which there is no municipal court~~ are persons authorized to receive bail in accordance with a schedule of bail approved by the judges of ~~those courts~~ that court.

(d) Before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, if the person arrested appears to be under the age of 18 years. The juvenile court shall by order designate the proper person before whom the appearance is to be made.

In a county that has implemented the provisions of Section 603.5 of the Welfare and Institutions Code, if the offense alleged to have been committed by a minor is classified as an infraction under this code, or is a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, the citation shall be issued as provided in subdivision (a), (b), or (c); provided, however, that if the citation combines an infraction and a misdemeanor, the place specified shall be as provided in subdivision (d).

If the place specified in the notice to appear is within a ~~judicial district or city and~~ county where a department of ~~the municipal court, or of~~ the superior court ~~in a county in which there is no municipal court,~~ is to hold a night session within a period of not more than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a statement notifying the person arrested that the person may appear before such a night session of the court.

Comment. Section 40502 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Code Civ. Proc. § 38 (judicial district).

Veh. Code § 40506.5 (amended). Request for continuance

SEC. ___. Section 40506.5 of the Vehicle Code is amended to read:

40506.5. Prior to the date upon which the defendant promised to appear and without depositing bail, the defendant may request a continuance of the written promise to appear. ~~The judge of a municipal court or of a~~ A judge of the superior court ~~in a county in which there is no municipal court~~ may authorize the clerk to grant the continuance.

Comment. Section 40506.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 42003 (amended). Payment of fines and costs

SEC. ___. Section 42003 of the Vehicle Code is amended to read:

42003. (a) A judgment that a person convicted of an infraction be punished by a fine may also provide for the payment to be made within a specified time or in specified installments. A judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due, he or

she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

(b) A judgment that a person convicted of any other violation of this code be punished by a fine may also order, adjudge, and decree that the person be imprisoned until the fine is satisfied. In all of these cases, the judgment shall specify the extent of the imprisonment which shall not exceed one day for every thirty dollars ($30) of the fine, nor extend in this case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he or she was convicted.

(c) In any case when a person appears before a traffic referee or judge of the ~~municipal court or~~ superior court for adjudication of a violation of this code, the court, upon request of the defendant, shall consider the defendant's ability to pay. Consideration of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. The reasonable cost of these services and of probation shall not exceed the amount determined to be the actual average cost thereof. The court shall order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of those costs or the court or traffic referee may make this determination at a hearing. At that hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to a written statement of the findings of the court or the county officer. If the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability; or, with the consent of a defendant who is placed on probation, the court shall order the probation officer to set the amount of payment, which shall not exceed the maximum amount set by the court, and the manner in which the payment shall be made to the county. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

The court may hold additional hearings during the probationary period. If practicable, the court or the probation officer shall order payments to be made on a monthly basis. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

A payment schedule for reimbursement of the costs of presentence investigation based on income shall be developed by the probation department of each county and approved by the presiding ~~judges of the municipal and superior courts~~ judge of the superior court.

(d) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the presentence report, and probation, and includes, but is not limited to, all of the following regarding the defendant:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant will be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factors that may bear upon the defendant's financial capability to reimburse the county for the costs.

(e) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering of the judgment.

Comment. Subdivision (c) of Section 42003 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 42008 (amended). County amnesty program for delinquent fines and bail

SEC. ___. Section 42008 of the Vehicle Code is amended to read:

42008. (a) Any county may operate an amnesty program for delinquent fines and bail imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations of the Vehicle Code and violations of Section 23103, 23104, 23152, or 23153. The program shall be implemented by the courts in accordance with Judicial Council guidelines, and shall apply to infraction or misdemeanor violations of the Vehicle Code, except parking violations, upon which a fine or bail was delinquent on or before April 1, 1991.

(b) Under the amnesty program, any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code, except violations of Section 23103, 23104, 23152, or 23153 or parking violations, may pay to ~~the municipal court or to~~ the superior court ~~in a county in which there is no municipal court~~ the amount scheduled by the court, which shall be either (1) 70 percent of the total fine or bail or (2) the amount of one hundred dollars ($100) for an infraction or five hundred dollars ($500) for a misdemeanor. This amount shall be accepted by the court in full satisfaction of the delinquent fine or bail.

(c) No criminal action shall be brought against any person for a delinquent fine or bail paid under this amnesty program and no other additional penalties shall be assessed for the late payment of the fine or bail made under the amnesty program.

(d) Notwithstanding Section 1463 of the Penal Code, the total amount of funds collected by the courts pursuant to the amnesty program created by this section shall be deposited in the county treasury.

Comment. Subdivision (b) of Section 42008 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 42008.5 (amended). One-time amnesty program

SEC. ___. Section 42008.5 of the Vehicle Code is amended to read:

42008.5. (a) A county may establish a one-time amnesty program for fines and bail that have been delinquent for not less than six months as of the date upon which the program commences and were imposed for an infraction or misdemeanor violation of this code, except parking violations of this code and violations of Section 23103, 23104, 23152, or 23153.

(b) Any person owing a fine or bail that is eligible for amnesty under the program may pay to the ~~municipal~~ <u>superior</u> or juvenile court the amount scheduled by the court, which shall be accepted by the court in full satisfaction of the delinquent fine or bail and shall be either of the following:

(1) Seventy percent of the total fine or bail.

(2) The amount of one hundred dollars ($100) for an infraction or five hundred dollars ($500) for a misdemeanor.

(c) The amnesty program shall be implemented by the courts of the county on a one-time basis and conducted in accordance with Judicial Council guidelines for a period of not less than 120 days. The program shall operate not longer than six months from the date the court initiates the program.

(d) No criminal action shall be brought against any person for a delinquent fine or bail paid under the amnesty program and no other additional penalties, except as provided in Section 1214.1 of the Penal Code, shall be assessed for the late payment of the fine or bail made under the amnesty program.

(e) Notwithstanding Section 1463 of the Penal Code, the total amount of funds collected by the courts pursuant to the amnesty program shall be deposited in the county treasury until 150 percent of the cost of operating the program, excluding capital expenditures, have been so deposited. Thereafter, 37 percent of the amount of the delinquent fines and bail deposited in the county treasury shall be distributed by the county pursuant to Section 1464 of the Penal Code, 26 percent of the amount deposited shall be distributed by the county pursuant to Article 2 (commencing with Section 76100) of Chapter 12 of Title 8 of the Government Code, and the remaining 37 percent of the amount deposited shall be retained by the county.

(f) The deposit of fines and bails in the county treasury as described in subdivision (e) is limited to the amnesty program described in this section, and it is the intent of the Legislature that it shall not be considered a precedent with respect to affecting programs that receive funding pursuant to Section 1463 of the Penal Code.

(g) Each county participating in the program shall file, not later than six months after the termination of the program, a written report with the Assembly Committee on Judiciary and the Senate Committee on Judiciary. The report shall summarize the amount of money collected, operating costs of the program, distribution of funds collected, and when possible, how the funds were expended.

Comment. Subdivision (b) of Section 42008.5 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Veh. Code § 42203 (amended). Disposition of fines and forfeitures for violations on certain county owned premises

SEC. ___. Section 42203 of the Vehicle Code is amended to read:

42203. Notwithstanding Section 42201 or 42201.5, 50 percent of all fines and forfeitures collected ~~in a municipal court, or~~ in a superior court ~~in a county in which there is no municipal court,~~ upon conviction or upon the forfeiture of bail for violations of any provisions of the Vehicle Code, or of any local ordinance or resolution, relating to stopping, standing, or parking a vehicle, that have occurred upon the premises of facilities physically located in such county, but which are owned by another county, which other county furnishes law enforcement personnel for the premises, shall be transmitted pursuant to this section to the county which owns the facilities upon which the violations occurred. The court receiving such moneys shall, once each month, transmit such moneys received in the preceding month to the county treasurer of the county in which the court is located. Once each month in which the county treasurer receives such moneys, the county treasurer shall transmit to the county which owns such facilities an amount equal to 50 percent thereof. The county owning such facilities shall, upon receipt of such moneys from the ~~municipal court or~~ superior court of the county in which the facilities are physically located, deposit such moneys in its county treasury for use solely in meeting

traffic control and law enforcement expenses on the premises upon which the violations occurred.

This section shall not apply when the county in which such facilities are located performs all law enforcement functions with respect to such facilities.

Comment. Section 42203 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

WELFARE AND INSTITUTIONS CODE

Welf. & Inst. Code § 246 (amended). Designation of juvenile court judge

SEC. ___. Section 246 of the Welfare and Institutions Code is amended to read:

246. ~~In counties having more than one judge of the superior court, the~~ The presiding judge of ~~such~~ the superior court ~~or the senior judge if there is no presiding judge~~ shall annually, in the month of January, designate one or more judges of the ~~superior~~ court to hear all cases under this chapter during the ensuing year, and ~~he~~ shall, from time to time, designate such additional judges as may be necessary for the prompt disposition of the judicial business before the juvenile court.

In all counties where more than one judge is designated as a judge of the juvenile court, the presiding judge of the superior court shall also designate one such judge as presiding judge of the juvenile court.

Comment. Section 246 is amended to reflect the fact that every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the "presiding judge" means the sole judge of the court. See Gov't Code § 69508.5 (presiding judge).

The section is also amended to delete language referring to the senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Welf. & Inst. Code § 255 (amended). Juvenile hearing officers

SEC. ___. Section 255 of the Welfare and Institutions Code is amended to read:

255. The ~~judge of the juvenile court, or in counties having more than one judge of the juvenile court the presiding judge of the juvenile court or the senior judge if there is no presiding judge,~~ court may appoint as subordinate judicial officers one or more persons of suitable experience, who may be ~~judges of the municipal court, or of the superior court in a county in which there is no municipal court, or~~ a probation officer or assistant or deputy probation officers, to serve as juvenile hearing officers on a full-time or part-time basis. A hearing officer shall serve at the pleasure of the ~~appointing judge~~ court, and unless the ~~appointing judge~~ court makes ~~his or her~~ an order terminating the appointment of a hearing officer, the hearing officer shall continue to serve until the appointment of his or her successor. The ~~board of supervisors~~ court shall determine whether any compensation shall be paid to hearing officers, not otherwise employed by a public agency or holding another public office, and shall establish the amounts and rates thereof. An appointment of a probation officer, assistant probation officer, or deputy probation officer as a juvenile hearing officer may be made only with the consent of the probation officer. A juvenile court shall be known as the Informal Juvenile and Traffic Court when a hearing officer appointed pursuant to this section hears a case specified in Section 256.

Comment. Section 255 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't Code §§ 77001 (local trial court management), 77200 (state funding of trial court operations).

The section is also amended to reflect enactment of the Trial Court Employment Protection and Governance Act. See Gov't Code § 71622(a) (each trial court may appoint subordinate judicial officers as deemed necessary, subject to Judicial Council approval).

The section is also amended to delete language referring to the senior judge. Every juvenile court with more than one juvenile court judge has a presiding judge. See Section 246 (appointment of presiding judge).

Welf. & Inst. Code § 270 (amended). County officers

SEC. ___. Section 270 of the Welfare and Institutions Code is amended to read:

270. Except as provided in Section ~~69906~~ 69906.5 of the Government Code, there shall be in each county the offices of probation officer, assistant probation officer, and deputy probation officer. A probation officer shall be appointed in every county.

Probation officers in any county shall be nominated by the juvenile justice commission or regional juvenile justice commission of such county in such manner as the judge of the juvenile court in that county shall direct, and shall then be appointed by such judge.

The probation officer may appoint as many deputies or assistant probation officers as ~~he~~ the probation officer desires; but such deputies or assistant probation officers shall not have authority to act until their appointments have been approved by a majority vote of the members of the juvenile justice commission, and by the judge of the juvenile court. The term of office of each such deputy or assistant probation officer shall expire with the term of the probation officer who appointed ~~him~~ the deputy or assistant probation officer, but the probation officer, with the written approval of the majority of the members of the juvenile justice commission and of the judge of the juvenile court, may, in ~~his~~ the probation officer's discretion, revoke and terminate any such appointment at any time.

Probation officers may at any time be removed by the judge of the juvenile court for good cause shown; and the judge of the juvenile court may in ~~his~~ the judge's discretion at any time remove any such probation officer with the written approval of a majority of the members of the juvenile justice commission.

Comment. Section 270 is amended to correct an erroneous reference to Government Code Section 69906.

Welf. & Inst. Code § 601.4 (amended). Compulsory education violation

SEC. ___. Section 601.4 of the Welfare and Institutions Code is amended to read:

601.4. (a) The juvenile court judge may be assigned to sit ~~as a municipal court judge, or~~ as a superior court judge ~~in a county in which there is no municipal court~~, to hear any complaint alleging that a parent, guardian, or other person having control or charge of a minor has violated Section 48293 of the Education Code. The jurisdiction of the juvenile court granted by this section shall not be exclusive and the charge may be prosecuted instead ~~in a municipal court, or~~ in a superior court ~~in a county in which there is no municipal court~~. However, upon motion, that action shall be transferred to the juvenile court.

(b) Notwithstanding Section 737 of the Penal Code, a violation of Section 48293 of the Education Code may be prosecuted pursuant to subdivision (a), by written complaint filed in the same manner as an infraction may be prosecuted. The juvenile court judge, sitting ~~as a municipal court judge or~~ as a superior court judge ~~in a county in which there is no municipal court~~, may coordinate the action involving the minor with any action involving the parent, guardian, or other person having control or charge of the minor. Both matters may be heard and decided at the same time unless the parent, guardian, other person having control or charge of the minor, or any member of the press or public objects to a

closed hearing of the proceedings charging violation of Section 48293 of the Education Code.

Comment. Section 601.4 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Welf. & Inst. Code § 656 (amended). Petition to declare minor a ward of the court

SEC. ___. Section 656 of the Welfare and Institutions Code is amended to read:

656. A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and subdivision under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to the petitioner, of both of the parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there are none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the minor child, that: (1) Section 903 may make that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 may make that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 may make that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

(i) In a proceeding alleging that the minor comes within Section 601, notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting ~~as a municipal court judge or~~ as a superior court judge ~~in a county in which there is no municipal court~~. In those cases, the petition shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure.

(j) If a proceeding is pending against a minor child for a violation of Section 594.2, 640.5, 640.6, or 640.7 of the Penal Code, a notice to the parent or legal guardian of the minor that if the minor is found to have violated either or both of these provisions that (1) any community service which may be required of the minor may be performed in the presence, and under the direct supervision, of the parent or legal guardian pursuant to either or both of these provisions, and (2) if the minor is personally unable to pay any fine levied for the violation of either or both of these provisions, that the parent or legal guardian of the minor shall be liable for payment of the fine pursuant to those sections.

(k) A notice to the parent or guardian of the minor that if the minor is ordered to make restitution to the victim pursuant to Section 729.6, as operative on or before August 2, 1995, Section 731.1, as operative on or before August 2, 1995, or Section 730.6, or to pay fines or penalty assessments, the parent or guardian may be liable for the payment of restitution, fines, or penalty assessments.

Comment. Subdivision (i) of Section 656 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Welf. & Inst. Code § 661 (amended). Notice and citation

SEC. ___. Section 661 of the Welfare and Institutions Code is amended to read:

661. In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring the minor with him or her. The notice shall in addition state that a parent, guardian, or foster parent may be required to participate in a counseling or education program with the minor concerning whom the petition has been filed. If the proceeding is one alleging that the minor comes within the provisions of Section 601, the notice shall in addition contain notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting ~~as a municipal court judge or~~ as a superior court judge ~~in a county in which there is no municipal court~~. In those cases, the notice shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

Comment. Section 661 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Welf. & Inst. Code § 742.16 (amended). Cleanup, repair, replacement, or restitution

SEC. ___. Section 742.16 of the Welfare and Institutions Code is amended to read:

742.16. (a) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6 or 640.7 of the Penal Code, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate, shall require the minor to wash, paint, repair, or replace the property

defaced, damaged, or destroyed by the minor or otherwise pay restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both. In any case in which the minor is not granted probation or in which the minor's cleanup, repair, or replacement of the property will not return the property to its condition before it was defaced, damaged, or destroyed, the court shall make a finding of the amount of restitution that would be required to fully compensate the owner and possessor of the property for their damages. The court shall order the minor or the minor's estate to pay that restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both, to the extent the court determines that the minor or the minor's estate have the ability to do so, except in any case in which the court makes a finding and states on the record its reasons why full restitution would be inappropriate. If full restitution is found to be inappropriate, the court shall require the minor to perform specified community service, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate.

(b) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the graffiti or other material inscribed by the minor has been removed, or the property defaced by the minor has been repaired or replaced by a public entity that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section and has made cost findings in accordance with subdivisions (c) or (d) of Section 742.14, the court shall determine the total cost incurred by the public entity for said removal, repair, or replacement, using, if applicable, the cost findings most recently adopted by the public entity pursuant to subdivision (c) or (d) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(c) If the minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code and the minor was identified or apprehended by the law enforcement agency of a city or county that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section, the court shall determine the cost of identifying or apprehending the minor, or both, using, if applicable, the cost findings adopted by the city or county pursuant to subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(d) If the court determines that the minor or the minor's estate is unable to pay in full the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the minor's parent or parents have been cited into court pursuant to Section 742.18, the court shall hold a hearing to determine the liability of the minor's parent or parents pursuant to Section 1714.1 of the Civil Code for those costs and damages. Except when the court makes a finding setting forth unusual circumstances in which parental liability would not serve the interests of justice, the court shall order the minor's parent or parents to pay those costs and damages to the probation officer of the county to the extent the court determines that the parent or parents have the ability to pay, if the minor was in the custody or control of the parent or parents at the time he or she committed the act that forms the basis for the finding that the minor is a person described in Section 602. In evaluating the parent's or parents' ability to pay, the court shall take into consideration

the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

(e) The hearing described in subdivision (d) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(f) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) is five thousand dollars ($5,000) or less, the parent or parents may not be represented by counsel and the probation officer of the county shall be represented by his or her nonattorney designee. The court shall conduct such a hearing in accordance with Sections 116.510 and 116.520 of the Code of Civil Procedure. Notwithstanding the foregoing, if the court determines that a parent cannot properly present his or her defense, the court may, in its discretion, allow another individual to assist that parent. In addition, a husband or wife may appear and participate in the hearing on behalf of his or her spouse if the representative's spouse has given his or her consent and the court determines that the interest of justice would be served thereby.

(g) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) exceeds five thousand dollars ($5,000), the parent or parents may be represented by counsel of his or her or their own choosing, and the probation officer of the county shall be represented by the district attorney or an attorney or nonattorney designee of the probation officer. The parent or parents shall not be entitled to court-appointed counsel or to counsel compensated at public expense.

(h) At the hearing conducted pursuant to subdivision (d), there shall be a presumption affecting the burden of proof that the findings of the court made pursuant to subdivisions (a), (b), and (c) represent the actual damages and costs attributable to the act of the minor that forms the basis of the finding that the minor is a person described in Section 602.

(i) If the parent or parents, after having been cited to appear pursuant to Section 742.18, fail to appear as ordered, the court shall order the parent or parents to pay the full amount of the costs and damages determined by the court pursuant to subdivisions (a), (b), and (c).

(j) Execution may be issued on an order issued by the court pursuant to this section in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

(k) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the showing of a change in circumstances relating to his or her ability to pay the judgment.

(*l*) For purposes of a hearing conducted pursuant to subdivision (d), the judge of the juvenile court shall have the jurisdiction of a judge of ~~the municipal court or of~~ the superior court in a limited civil case, and where the amount of the demand is five thousand dollars ($5,000) or less, the judge of the juvenile court shall have the powers of a judge presiding over the small claims court.

(m) Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

(n) The options available to the court pursuant to subdivisions (a), (b), (c), (d), and (k), to order payment by the minor and his or her parent or parents of less than the full costs described in subdivisions (a), (b), and (c), on grounds of financial inability or for reasons of justice, shall not be available to a ~~municipal~~ <u>superior</u> court in an ordinary civil proceeding pursuant to subdivision (b) of Section 1714.1 of the Civil Code, except that in any proceeding pursuant to either subdivision (b) of Section 1714.1 of the Civil Code or

this section, the maximum amount that a parent or a minor may be ordered to pay shall not exceed twenty thousand dollars ($20,000) for each tort of the minor.

Comment. Subdivisions (*l*) and (n) of Section 742.16 are amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Welf. & Inst. Code § 872 (amended). Transfer to juvenile hall outside county

SEC. ___. Section 872 of the Welfare and Institutions Code is amended to read:

872. Where there is no juvenile hall in the county of residence of minors, or when the juvenile hall becomes unfit or unsafe for detention of minors, the presiding or sole juvenile court judge may, with the recommendation of the probation officer of the sending county and the consent of the probation officer of the receiving county, by written order filed with the ~~county~~ clerk <u>of the court,</u> designate the juvenile hall of any county in the state for the detention of an individual minor for <u>a period</u> not to exceed 60 days. The court may, at any time, modify or vacate the order and shall require notice of the transfer to be given to the parent or guardian. The county of residence of a minor so transferred shall reimburse the receiving county for costs and liability as agreed upon by the two counties in connection with the order.

As used in this section, the terms "unfit" and "unsafe" shall include a condition in which a juvenile hall is considered by the juvenile court judge, the probation officer of that county, or the Board of Corrections to be too crowded for the proper and safe detention of minors.

Comment. Section 872 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Welf. & Inst. Code § 1737 (amended). Commitment recall and resentencing

SEC. ___. Section 1737 of the Welfare and Institutions Code is amended to read:

1737. When a person has been committed to the custody of the authority, if it is deemed warranted by a diagnostic study and recommendation approved by the director, the judge who ordered the commitment or, if the judge is not available, the presiding ~~or sole~~ judge of the court, within 120 days of the date of commitment on his or her own motion, or the court, at any time thereafter upon recommendation of the director, may recall the commitment previously ordered and resentence the person as if he or she had not previously been sentenced. The time served while in custody of the authority shall be credited toward the term of any person resentenced pursuant to this section.

As used in this section, "time served while in custody of the authority" means the period of time during which the person was physically confined in a state institution by order of the Youth Authority or the Youthful Offender Parole Board.

Comment. Section 1737 is amended to delete language referring to the sole judge. Every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq*. (number of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the "presiding judge" means the sole judge of the court. See Gov't Code § 69508.5 (presiding judge).

Welf. & Inst. Code § 5205 (amended). Petition

SEC. ___. Section 5205 of the Welfare and Institutions Code is amended to read:

5205. The petition shall be in substantially the following form:

☞ **Note.** A portion of the statutory form has been omitted to conserve resources.

That the person is _____ years of age; that __~~he~~ the person is ____ (sex); and that __~~he~~ the person is ____ (single, married, widowed, or divorced); and that ____ occupation is ___.

That the facts upon which the allegations of the petition are based are as follows:

That __~~he~~ the person, at ____ in the county, on the ____ day of ____, ~~19~~ 20 __,

_____

That petitioner's interest in the case is _____

That the person responsible for the care, support, and maintenance of the person, and their relationship to the person are, so far as known to the petitioner, as follows:

(Give names, addresses, and relationship of persons named as respondents)

Wherefore, petitioner prays that evaluation be made to determine the condition of _____, alleged, as a result of mental disorder, to be a danger to others, or to himself,

or to be gravely disabled.

_____

Petitioner

Subscribed and sworn to before me this ____ day of _____~~19~~ 20 __.

_____, ~~County~~ Clerk of the Court

By _____ Deputy

Comment. Section 5205 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Welf. & Inst. Code § 6251 (amended). Petition

SEC. ___. Section 6251 of the Welfare and Institutions Code is amended to read:

6251. Wherever, on the basis of a petition, provision is made in this code for issuing and delivering an order for examination and detention directing that a person be apprehended and taken before a judge of a superior court for a hearing and examination on an allegation of being a person subject to judicial commitment, the petition shall be in substantially the following form:

☞ **Note.** A portion of the statutory form has been omitted to conserve resources.

_____, residing at _____ (tel. _____), being duly sworn deposes and says:

That there is now in the county in the City or Town of _____ a person named ____, who resides at ____, and who is believed to be a ___. That the person is ____ years of age; that _~~he~~ the person is ____ (sex) and that _~~he~~ the person is ____ (single, married, widowed, or divorced); and that ____ occupation is ___. That the facts because of which petitioner believes that the person is a ____ are as follows: That ~~he~~ the person, at ____ in the county, on the ____ day of ____, ~~19~~ 20 __,

_____That petitioner's interest in and case is _____

That petitioner believes that said person is ____ as defined in Section ___. That the persons responsible for the care, support, and maintenance of the ____, and their

relationship to the person are, so far as known to the petitioner, as follows: (Give names, addresses, and relationship of persons named as respondents) Wherefore, petitioner prays that examination be made to determine the state of the mental health of ____, alleged to be ____, and that such measures be taken for the best interest and protection of said ____, in respect to ~~his~~ the person's supervision, care and treatment, as may be necessary and provided by law.

_____
Petitioner
Subscribed and sworn to before me this ____ day of _____, ~~19~~ 20 __.
_____, ~~County~~ Clerk of the Court
By _____ Deputy

Comment. Section 6251 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

Welf. & Inst. Code § 6776 (amended). Number and compensation of counselors in mental health

SEC. ___. Section 6776 of the Welfare and Institutions Code is amended to read:

6776. In each county where the office of counselor in mental health has been created under the provisions of this chapter, the judge of the superior court may appoint two such counselors. In ~~counties of the first class having a charter~~ Los Angeles County the ~~numbers~~ number, compensation and benefits of ~~officers and employees shall be as provided in Section 69894.1~~ counselors in mental health are governed by the Trial Court Employment Protection and Governance Act, Chapter 7 (commencing with Section 71600) of Title 8 of the Government Code.

Comment. Section 6776 is amended to reflect the repeal of Government Code Section 69894.1, concerning salaries of court personnel in Los Angeles County, and the enactment of the Trial Court Employment Protection and Governance Act. See Gov't Code §§ 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71673 (authority of court).

Welf. & Inst. Code § 14172 (amended). Health care overpayment recovery

SEC. ___. Section 14172 of the Welfare and Institutions Code is amended to read:

14172. (a) Except as provided in subdivision (b), if any amount is due and payable and unpaid as the result of an overpayment to a provider of health care services, durable medical equipment, or incontinence supplies identified through an audit or examination conducted by or on behalf of the director, and the findings of the audit or examination are completed and no appeal is taken or the director has issued a final decision on the appeal pursuant to Section 14171, and 90 days has elapsed from the completion of that audit or examination or issuance of that final decision on appeal, the director may, not later than three years after the payment became due and owing, file in the office of the ~~County~~ Clerk of the Superior Court of Sacramento County, and with the ~~county~~ clerk of the superior court of the county in which the provider has ~~his~~ its principal place of business, a certificate containing the following:

(1) Interest, as prescribed by Section 14171.

(2) A statement that the director has complied with this article prior to the filing of the certificate.

(3) A request that judgment be entered against the provider in the amount set forth in the certificate.

The ~~county~~ clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the provider in the amount set forth in the certificate. The judgment may be filed by the ~~county~~ clerk in a looseleaf book entitled "Health Care Overpayment Recovery Judgments."

(b) If the provider seeks judicial review of the final decision of the director pursuant to subdivision (k) of Section 14171 and notice of that action is properly served on the director within 90 days of the issuance of the final decision of the director, the director shall not file any certificate as provided in subdivision (a).

If the provider does not seek judicial review of the final decision of the director pursuant to subdivision (k) of Section 14171 and does not properly serve notice within 90 days from the date of the final decision of the director, the director may file the certificate provided in subdivision (a). If the provider seeks judicial review of the final decision of the director more than 90 days from the date of the decision in accordance with subdivision (k) of Section 14171, the director shall within 10 days after receiving notice of that action release any lien imposed pursuant to this article and any judgment entered is for all purposes null and void.

Comment. Subdivision (a) of Section 14172 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court), 71620 (trial court personnel).

UNCODIFIED

Uncodified (added). Saving clause — rights and benefits

SEC. ___. If a right, privilege, duty, authority, or status, including but not limited to, a qualification for office, salary range, or employment benefit, is based on a provision of law repealed by this act, and if a statute, order, rule of court, memorandum of understanding, or other legally effective instrument provides that the right, duty, authority, or status continues for a period beyond the effective date of the repeal, that provision of law continues in effect for that purpose, notwithstanding its repeal by this act.

Uncodified (added). Effect of act — court reporting services

SEC. ___. Nothing in this act is intended to change the extent to which official reporter services or electronic reporting may be used in the courts.

Uncodified (added). Deferred operative date — Code Civ. Proc. §§ 198.5, 199, 199.2, 199.3, and 199.5

SEC. ___: The following provisions of this act become operative on January 1, 2004:

Section ___.

Section ___.

Section ___.