

Memorandum 2001-76

Statutes Made Obsolete by Trial Court Restructuring: Court Clerk

BACKGROUND

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. See, e.g., former Cal Const. art. I, § 4.

This is no longer good law. The superior court may appoint its executive officer as court clerk. Gov't Code §§ 26800; 69898. Every superior court now has an executive officer who serves as court clerk. At a minimum, statutes designating the "county clerk" as the relevant officer for court-related functions should be revised to refer instead to the "court clerk," whether that function is performed by the county clerk, court executive officer, or another court appointee.

The situation is exacerbated by the shift of trial court funding from the county to the state. Gov't Code § 77200. Many statutes no longer appropriately impose duties on the county clerk. Those duties should be imposed on a court-funded officer — the court clerk.

The staff has collected statutes that involve the county clerk in court-related functions. We have analyzed the statutes and made a judgment as to which functions should be assigned to the court clerk. A chart summarizing the statutes and the staff's analysis is attached as Exhibit pp. 1-8.

We have circulated the analysis, with implementing drafts, to interested persons, including court executive officers and county clerks. This memorandum presents for Commission resolution policy issues raised by the responses the staff has received on this material.

ANALYSIS

General Comments

We have received relatively few comments on the material. Presumably this suggests general agreement with the staff's analysis. We have received specific notification to that effect from the court executive officers of Ventura and Yuba counties.

Code Civ. Proc. § 575.1. Local court rules

Code of Civil Procedure Section 575.1(b) provides that copies of local court rules are to be filed with each county law library or county clerk. The draft circulated by the staff for comment suggests that the rules be filed with each county law library, eliminating the county clerk from the process. The draft also solicits comment on whether it would make sense to require the courts and the Judicial Council to post local rules on their websites.

With respect to the repository for copies of local rules, Administrative Office of the Courts personnel suggest that the rules be filed with each county law library "or executive officer of the superior court." They note that under Rules of Court 981 it is the responsibility of the executive officer to maintain a current set of all counties' local rules and make them available for public examination. That function may be delegated to the county law library with approval of the court and consent of the law librarian if the court is satisfied the librarian will maintain the rules and amendments. They note that some law libraries may not be very accessible to the public.

The staff is convinced by this argument. A related question, though, is whether it makes sense to expand the law and require that copies of the rules be filed **both** with the court clerk and law library?

With respect to web publication, Administrative Office of the Courts personnel note that they may be circulating for comment proposed changes to Rule 981 that would require each court to file an electronic copy of local rules with the Judicial Council and to certify whether or not the court posts these rules to its website and whether or not the court provides assistance to the public in obtaining internet access. The Judicial Council's Court Executive Officers Advisory Committee currently has this proposal under review.

Pending action by the Judicial Council on the matter, **the staff thinks it would be helpful to obtain comments on the concept of website posting by**

including such a provision in the Commission's tentative recommendation and specifically inviting comment on it.

The staff's proposals would be implemented by the following proposed revision of Code of Civil Procedure Section 575.1:

575.1. (a) The presiding judge of each superior ~~and municipal~~ court may prepare, with the assistance of appropriate committees of the court, proposed local rules designed to expedite and facilitate the business of the court. The rules need not be limited to those actions on the civil active list, but may provide for the supervision and judicial management of actions from the date they are filed. Rules prepared pursuant to this section shall be submitted for consideration to the judges of the court and, upon approval by a majority of the judges, the judges shall have the proposed rules published and submitted to the local bar and others, as specified by the Judicial Council, for consideration and recommendations.

(b) After a majority of the judges have officially adopted the rules, 61 copies or a greater number as specified by Judicial Council rule, shall be filed with the Judicial Council as required by Section 68071 of the Government Code. The Judicial Council shall deposit a copy of each rule and amendment with each county law library or ~~county clerk~~ of the superior court where it shall be made available for public examination. The local rules shall also be published for general distribution in accordance with rules adopted by the Judicial Council. Each court shall make its local rules available for inspection and copying in every location of the court that generally accepts filing of papers. The court may impose a reasonable charge for copying the rules and may impose a reasonable page limit on copying. The rules shall be accompanied by a notice indicating where a full set of the rules may be purchased. The court and the Judicial Council shall, if they maintain Internet websites or a similar forum for the electronic publication or distribution of written material, publish the rules on those websites or other forums.

(c) If a judge of a court adopts a rule that applies solely to cases in that judge's courtroom, or a particular branch or district of a court adopts a rule that applies solely to cases in that particular branch or district of a court, the court shall publish these rules as part of the general publication of rules required by the California Rules of Court. The court shall organize the rules so that rules on a common subject, whether individual, branch, district, or courtwide appear sequentially. Individual judges' rules and branch and district rules are local rules of court for purposes of this section and for purposes of the adoption, publication, comment, and filing requirements set forth in the Judicial Council rules applicable to local court rules.

Comment. Subdivision (a) of Section 575.1 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 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), 71620 (trial court personnel).

Subdivision (b) is also amended to add the requirement of Internet publication of local rules. This provision is drawn from Section 11340.85 (administrative procedure act).

☞ **Note.** The Commission particularly solicits comment on the following matters:

Does it make sense to require the courts and the Judicial Council to post local rules on their websites?

Would it make sense to require deposit of copies of a court's local rules with **both** the county law library and the court clerk of every county?

Elec. Code § 2212. Report of persons convicted of felonies

Elections Code Section 2212 requires the county clerk, on the basis of court records, to provide the county elections official information about persons convicted of felonies during the preceding year who remain imprisoned. The staff proposal would shift this responsibility to the court clerk on the theory that the court clerk has better access to the court records.

The Administrative Services Officer of the Tulare County Superior Court observes that, at least in that county, the court will never know which felons remain imprisoned. "We believe that the full spectrum of this information would be available to, and thus should be provided by, an agency such as the CA Department of Justice and/or Department of Corrections." They suggest that the relevant agency provide the required information to the state registrar of voters, who could either purge the rolls or disseminate the information to local elections officials.

While this proposal makes sense, the staff believes a simpler approach would be to have the court clerk certify felony convictions, and leave it to the county elections official to determine whether the felon remains imprisoned. Under existing law the county clerk is only required to ascertain which felons remain

imprisoned; it is presumably up to the county elections official to determine who remains on parole.

The staff suggests revising Elections Code Section 2212 to eliminate the imprisonment reporting requirement. If we do this, we should circulate the proposal to county election officials for review and comment.

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 Sections 69840 (powers, duties, and responsibilities of 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.

☞ **Note.** The Commission particularly solicits comment on the following matter:

Should the requirement of reporting which felons remain imprisoned be deleted, leaving the matter to determination by the county elections official?

Food & Agric. Code § 31622. Dangerous or vicious dogs

Food and Agricultural Code Section 31622 requires that fees for appeals of judgments regarding potentially dangerous or vicious dogs be paid to the county clerk. The staff has suggested no change in this provision on the theory that fee

provisions such as this are in dispute between the courts and counties and therefor it is premature to consider them as obsolete under trial court restructuring.

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.** 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.

☞ **Note.** The provisions of this section relating to the municipal court are obsolete. The section will require revision in any event to correct the obsolete provisions.

The Administrative Services Officer of the Tulare County Superior Court argues that under this statute the appeal is to the court and the court conducts a trial de novo. Therefore, as in all other appeals “the court should receive this filing fee, not the county clerk. The county clerk will play no role in the appeals process.”

The Lassen County Superior Court’s Executive Officer points out that in Lassen “this fee is a regular appeal filing fee that is collected by the court clerk at the filing counter.” The case is heard by the superior court and the appeal goes to the appellate division.

While the staff agrees with the logic of the points made, our opinion is that for the present the matter is governed by politics rather than logic. As we have noted consistently in this project, the counties (with good reason) take the position that unless fees have specifically been allocated to the courts, the counties are still entitled to the fees. The shift in funding from the counties to the state was a carefully negotiated and detailed compromise that allocates some fees to the courts and leaves others to the counties. There may be further realignment in the future, but **that is beyond the scope of the Commission’s mandate, which is to recommending repeal of provisions made obsolete by trial court restructuring.** This general issue is discussed further in Memorandum 2001-68.

Gov’t Code § 24051. County property in possession of court

The staff has recommended no revision of Government Code Section 24051, at least with respect to functions of the county clerk. (The section will require revision, however, to reflect trial court unification and the elimination of judicial districts.) The section requires the court annually to submit to the county clerk or auditor a list of county property in its possession.

24051. On or before July 10th in each year, or at such other interval designated by the board of supervisors, each county officer or person in charge of any office, department, service, or institution of the county, each officer of a judicial district, each judge, or the clerk, secretary, or other administrative officer of each court of record, and the executive head of each special district whose affairs and funds are under the supervision and control of the board of

supervisors or for which the board is ex officio the governing body shall **file with the county clerk**, or with the county auditor, according to the procedure prescribed by the board, an inventory under oath, showing in detail all county property in his possession or in his charge at the close of business on the preceding June 30th. By ordinance the board of supervisors may prescribe an annual or such other period, provided that such period shall not be in excess of three years, for preparation of the inventory and a correspondingly different date for its filing, and may prescribe the manner and form in which the inventory shall be compiled. The inventories shall be **kept of record by the county clerk** or auditor for at least five years. Any inventory which has been on file for five years or more may be destroyed on order of the board of supervisors. A true copy of the inventory shall be delivered by the person who made it to his successor in office, who shall receipt for it. The receipt shall be **filed with the county clerk** or county auditor.

The court Executive Officer for Imperial County notes that no judge does this in their county, “nor have I ever seen such a form or inventory submitted to the judges in my 18 years here.”

The staff would make no change in this section (at least with respect to the requirement of filing an inventory of county property). It is existing law, and until issues involving responsibility for court facilities and other questions of court v. county property have been sorted out, it appears appropriate to maintain the law. **Perhaps we should flag the section for further review in the future after court facilities and related property issues have been resolved.**

Penal Code § 896 et al. Grand jury proceedings

Penal Code Section 896, 900, and other Penal Code provisions give the county clerk a role in grand jury proceedings. Section 900 provides, for example:

900. On receiving the list of persons selected by the court, the **county clerk** shall file it in his office and have such list, which shall include the name of the judge who selected each person on the list, published one time in a newspaper of general circulation, as defined in Section 6000 of the Government Code, in the county. The **county clerk** shall thereupon do either of the following:

(a) Write down the names on the list onto separate pieces of paper of the same size and appearance, fold each piece so as to conceal the name thereon, and deposit the pieces in a box to be called the “grand jury box.”

(b) Assign a number to each name on the list and place, in a box to be called the “grand jury box,” markers of the same size, shape, and color, each containing a number which corresponds with a number on the list.

Other statutes include similar provisions. See, e.g., Pen. Code §§ 904, 932, 933, 938.1.

We have suggested no changes in these provisions because under trial court funding revisions, grand jury operations remain a county function. See, e.g., Gov’t Code § 77003 (grand jury operations and expenses specifically excluded from “court operations” for which state is responsible).

However, the Imperial County Court Executive Officer points out that Rule 810 of the Rules of Court distinguishes between grand jury operations and grand jury selection. Under that provision grand jury selection expenses do fall within court operations. See also Gov’t Code § 68073, exempting the county from liability for court operations within the meaning of Rule 810 as it existed on July 1, 1997. Since grand jury selection is a court function, funded out of court operations funds, the court clerk is the appropriate officer to assume these functions.

The staff thinks this is a good point and would include proposed changes along the following lines in any tentative recommendation the Commission circulates for comment.

896. (a) Immediately after such order is made, the court shall select the grand jurors required by personal interview for the purpose of ascertaining whether they possess the qualifications prescribed by subdivision (a) of Section 893. If a person so interviewed, in the opinion of the court, possesses such qualifications, in order for his name to be listed he the person shall sign a statement declaring that he the person will be available for jury service for the number of hours usually required of a member of the grand jury in that county.

(b) The selections shall be made of men and women who are not exempt from serving and who are suitable and competent to serve as grand jurors pursuant to Sections 893, 898, and 899. The court shall list the persons so selected and required by the order to serve as grand jurors during the ensuing fiscal year of the county, or until a new list of grand jurors is provided, and shall at once place this list in the possession of the ~~county~~ clerk of the court.

Comment. Section 896 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 Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

900. On receiving the list of persons selected by the court, the county clerk of the court shall file it ~~in his office~~ and have such list, which shall include the name of the judge who selected each person on the list, published one time in a newspaper of general circulation, as defined in Section 6000 of the Government Code, in the county. The county clerk shall thereupon do either of the following:

(a) Write down the names on the list onto separate pieces of paper of the same size and appearance, fold each piece so as to conceal the name thereon, and deposit the pieces in a box to be called the “grand jury box.”

(b) Assign a number to each name on the list and place, in a box to be called the “grand jury box,” markers of the same size, shape, and color, each containing a number which corresponds with a number on the list.

Comment. Section 900 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 Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

904. Every superior court, whenever in its opinion the public interest so requires, shall make and file with the county clerk of the court an order directing a grand jury to be drawn. Such order shall designate the number of grand jurors to be drawn, which shall not be less than 29 or more than 40 in counties having a population exceeding four million and not less than 25 nor more than 30 in other counties.

Comment. Section 904 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 Sections

69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

Penal Code § 4007. Use of correctional facility other than county jail

Penal Code Section 4007 authorizes use of correctional facilities other than the county jail in specified circumstances, on court order. In those cases, the court order is filed with the county clerk. The staff has proposed no change in this procedure, on the theory that the court order relates to use of county, rather than court, facilities.

The section provides:

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**, 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**. 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**. 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.

The issue is whether it would make more sense to file the court's order with the court clerk. The Executive Officer of the Imperial County Superior Court argues that the court order would normally bear the prisoner's court case number. The county clerk in that county would probably refuse to accept the court order, saying it was court related. "If the court were looking to see where the prisoner was moved to, the first place anyone would look is in the court records, not county clerk."

The staff is not at all confident that people would think court records will show the current incarceration status of a prisoner. See discussion of Elec. Code § 2211, above (report of persons convicted of felonies). **The staff suggests we seek further comment on this point** by including in any tentative recommendation the text of this section, showing a possible change to the court clerk, and expressly requesting comment on the matter.

Welf. & Inst. Code § 872. Use of juvenile hall other than county juvenile hall

The issue raised in connection with Welfare and Institutions Code Section 872 is the same as that raised in connection with Penal Code Section 4007, discussed immediately above.

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**, designate the juvenile hall of any county in the state for the detention of an individual minor for 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.

Should the court order transferring a juvenile to another county be filed with the county clerk or court clerk? The Imperial County Superior Court Executive Officer says, “Child would be subject to a court action with a court case number so order should probably be filed with the court clerk because that is where interested persons would start looking.”

For the reasons discussed in connection with Penal Code Section 4007, **the staff would solicit additional comment on this point.**

CONCLUSION

There appears to be general agreement with the disposition of existing statutes as suggested in the Exhibit to this memorandum. The only questions that have been raised are those presented in this memorandum. The staff would incorporate the changes proposed in the Exhibit, as modified by any decisions

made by Commission on issues raised in this memorandum, in the draft tentative recommendation on repeal of statutes made obsolete by trial court structuring.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

STATUTES MADE OBSOLETE BY TRIAL COURT
RESTRUCTURING:

DUTIES OF COUNTY CLERK AND COURT CLERK

Code Sections to be Considered for Revision

☞ **Staff Note.** The following chart lists statutes involving the county clerk and court-related functions. The Law Revision Commission staff has made an initial determination whether each statute requires revision to reflect the performance of duties by the clerk of the court, rather than by the county clerk (who formerly served ex officio as clerk of the court).

For those statutes which the staff has concluded require revision, we have attached a draft amendment or repeal.

The staff is interested in comment on the following matters:

- (1) Whether our categorization is correct that a statute does or does not require revision.
- (2) Whether the draft of revisions is satisfactory.
- (3) Whether there are other statutes relating to the county clerk, not listed in this chart, that require revision.
- (4) Comment on matters raised in Staff Notes throughout the draft.

Section	Amend?	Notes/Analysis
Bus. & Prof. Code §§ 6324, 6365	No	Deal with the county law library's funding and the termination of the county clerk's collection of fees and costs for it if the law library is closed. As the law library is overseen by a board of trustees and not the court, this section does not seem to need revision. <i>See</i> Cal. R. Ct. 810(b)(1), which excludes law library operations from court operations.
Bus. & Prof. Code §§ 6402-6416	No	Outline procedures by which one registers with the county clerk as a legal document assistant or an unlawful detainer assistant. While such persons deal with court actions, the bond they are required to post is filed with the county recorder. These individuals seem to fall within a somewhat borderline area between court functions and general professional licensing, which would be more appropriate for the county clerk to oversee. The Dept. of Consumer Affairs has some involvement in the licensing of these professionals, which further indicates they do not need to come under the auspices of the court clerk.

<p>Bus. & Prof. Code §§ 22350-22360</p>	<p>No</p>	<p>Concern the registration of professional process servers with the county clerk. The provisions of these sections are similar to Bus. & Prof. Code §§ 6402-6416 discussed above. The clerk is to revoke the license of those servers who violate provisions of these sections. Moreover, it appears to be an administrative law judge who makes the determination of whether or not one's license should be terminated, and the servers' relationship with the court is somewhat peripheral.</p>
<p>Bus. & Prof. Code §§ 22450-22460</p>	<p>No</p>	<p>General provisions similar to Bus. & Prof. Code §§ 6402-6416 above, only these concern the registration of professional photocopiers. Section 22460 requires the county clerk, upon receipt of court documents that indicate registrant violated certain sections of the code, to revoke their license. The county clerk thus must be given notice of such court actions, and the overall link with court activities and operations is rather minimal.</p>
<p>Civ. Code § 52.1</p>	<p>Yes</p>	<p>The county clerk may be required to deliver copies of certain orders (e.g., restraining orders, temporary or permanent injunctions) to the proper law enforcement agencies. Since the order originates with the court, the court clerk seems the most appropriate person to deliver such orders if required.</p>
<p>Code Civ. Pro. § 73e</p>	<p>Yes</p>	<p>Deals with the holding of juvenile court sessions. The order must be filed with the county clerk. Since this order originates with the court and deals exclusively with a court function, the section should be amended to provide for the filing of the order with the court clerk. However, since the sessions materials are still being worked on, revision at this time is not recommended.</p>
<p>Code Civ. Pro. § 131.3</p>	<p>Probably Not</p>	<p>County clerk must provide record books for probation officer, the payment for which are to come from county funds. As long as such funding comes from the county, the provision of these materials should probably remain with the county clerk.</p>

Code Civ. Pro. § 575.1	Yes	Local Superior Court rules must be deposited in each county law library or with the county clerk. Every county now has a law library. Deposit with county clerk may be eliminated.
Code Civ. Pro. § 1420	Yes	This section deals with escheat proceedings and requires that if such proceedings have been instituted, the order be filed with the estate's papers in the office of the county clerk where such proceedings took place.
Corp. Code § 420	Yes	Allows corporation or its transfer agent to await the receipt of a certificate of the county clerk of the county in which the judgment or order was entered or made, showing that the judgment or order has become final.
Corp. Code § 14502	No	Appointment and registration of humane officers. The officer is required to file a certified copy of his or her appointment with the county clerk.
Elec. Code § 2212	Yes	Concern s revocation of one's voter registration. Section 2212(b) provides that the county clerk, on the basis of court records for the county, shall furnish to the chief elections official at regular intervals the names, addresses, and dates of birth of those convicted of felonies since the clerk's last report. This section should be changed to reflect the fact that the court clerk would have easier access to the conviction records spoken of here.
Fam. Code § 302	No	Outlines procedure by which those under 18 may consent to marriage - certain documents, including a court order, must be filed with county clerk who issues the marriage license. This section represents one of those traditional areas of county clerk control, the issuing and registration of marriage licenses.
Fam. Code § 303	No	Provides that a court may furnish consent for minor to marry who has no parent able to consent to such a marriage. The order is to be filed with the county clerk. Similar to Fam. Code § 302 above.
Fam. Code § 353	No	Outlines procedure by which two parties under the age of 18 may obtain a marriage license. Similar to Fam. Code § 302 above.

Fam. Code § 6387	Yes	Requires that the court shall order the county clerk to provide the petitioner with five certified, stamped, and endorsed copies of any protective order without cost. The court clerk seems to be the most suitable person to provide the petitioner with copies of court orders.
Fam. Code § 7122	Yes	Requires that order emancipating minors be filed with the county clerk. This is a court function.
Fam. Code § 7134	Yes	Requires that order rescinding emancipation of minor be filed with county clerk. This is a court function.
Food & Agric. Code § 31622	No	Requires that fees for appeals of judgments regarding potentially dangerous or vicious dogs be paid to the county clerk.
Gov't Code § 1457	No	Bonds of county and judicial officers must be filed with the county clerk.
Gov't Code § 24051	No	Requires the judges of the court to submit to the county clerk or auditor a list of county property in their possession on a yearly basis. (Needs to be adjusted in another context for trial court restructuring, however).
Gov't Code § 25100.5	Yes	Refers to the county clerk as ex officio clerk of the court. The clerk of the board of supervisors is entitled to 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. This section should probably be revised to eliminate the obsolete reference to the county clerk as ex officio clerk of the superior court.
Gov't Code § 26800	Yes	Refers to county clerk as clerk of the superior court unless court has appointed an executive officer. This section may need to be revised to clarify the relationship between the county clerk and the executive officer in relation to the duties of court clerk.
Gov't Code § 26806	Yes	Outlines the procedures by which the county clerk may hire interpreters for criminal cases in the superior or municipal courts.

Gov't Code §§ 26820-26863	No	Allows the county clerk to collect the fees as outlined for services performed by clerk. Many of these services are related to court operations and activities. However, fees are the subject of dispute between the courts and counties, as part of trial court funding issues. It is premature to propose any revisions of this material.
Gov't Code § 68082	Yes	Should the reference to county clerk be augmented with reference to clerk of the court? This section prohibits certain individuals from practicing law. The intention seems rather clear to include all judicial officers, which should include court executive officers.
Gov't Code § 68096	Yes	Deals with witness fees in Tuolumne County. County clerk certifies to auditors the number of days of service and mileage of each witness.
Gov't Code § 68114.6	Yes	Allows court to appoint an executive officer and assign any duties in connection with judicial activities that are the responsibility of the county clerk to such an officer by local rule. This section came about from the trial court coordination plan of 1992 and may no longer be relevant.
Gov't Code § 69510	Yes	Requires judges of court to file order designating sessions with county clerk. It would make more sense to have the court clerk file these orders.
Gov't Code § 69649	Yes	Requires judges to file their orders regarding sessions with the county clerk. Similar to Gov't Code § 69510 above.
Gov't Code § 69743	Yes	Requires judges to file orders relating to sessions pursuant to Gov't Code § 69742 with the county clerk. Similar to Gov't Code § 69510 above.
Gov't Code §§ 69744, 69744.5	Yes	Similar to Gov't Code § 69743 above.
Gov't Code § 69898	Yes	Deals with the interaction of the court executive officer and the county clerk. This section should probably be revised to clarify the relationship between the county clerk and the court executive officer and the responsibilities and duties of the clerk of the court.

Gov't Code § 69999	Yes	Deals with the transmittal of court reporting funds by county clerk. The eventual relationship between the county and the state courts regarding these fees is still open to discussion, but a revision should be proposed for the purpose of stimulating comment.
Gov't Code §§ 70017, 70045.2, 70062, 70104, & 70128	Yes	Similar to Gov't Code § 69999 above.
Gov't Code § 71081	Yes	Judge must file a statement of selection with the county clerk when entitled to hold office in more than one court or have default provision take effect. Obsolete in light of trial court unification.
Gov't Code § 71620	Yes	Deals with the interaction of the court executive and county clerk. This section may need to be revised to clarify the relationship between the county clerk, the court executive, and the duties and responsibilities of the clerk of the court.
Penal Code § 869	Yes	Depositions in homicide and other cases must be filed by the county clerk, copies of which must be delivered to the district attorney and the defendant or his attorney. This responsibility should probably be transferred to the clerk of the court.
Penal Code § 896	No	Deals with list of potential grand jurors to be kept by the county clerk. Grand juries remain a county function.
Penal Code §§ 900, 904, 932, 933, & 938.1	No	Deal with other grand jury matters. Similar to Penal Code § 896 above.
Penal Code § 1237.5	Yes	In order for appeal to be taken, trial court must file with the county clerk a certificate of probable cause for such appeal. It is unclear why the trial court must file this certificate with the county clerk and not the clerk of the court. It would seem best to have such a certificate kept with the court records of the case to be transmitted in toto to the appellate court.
Penal Code § 1269b	Probably	Requires the transmittal of surety bonds and cash deposits for bail to the county clerk in a felony case where an indictment is filed. The bail bond or deposit arguably should remain with the court file.

Penal Code § 1539	Yes	Requires the county clerk to deliver transcripts to the district attorney and defendant(s) or lawyer(s). The clerk of the court seems to be the more appropriate officer to fulfill these duties. However, the provisions are similar to Penal Code § 869 above.
Penal Code § 3607	Yes	Requires the warden to return the death warrant to the county clerk with certain information on it regarding the execution.
Penal Code § 4007	No	Use of contiguous jail order must be filed with the county clerk. Since this section deals with the use of county facilities (the jails in two different counties), it may be appropriate for the county to have a record of such orders on file.
Penal Code § 4009	No	Revocation of order in Penal Code § 4007 must be filed with the county clerk.
Prob. Code § 1513	Yes	Filing of report and recommendation concerning proposed guardianship must be overseen by county clerk.
Prob. Code § 1821	Yes	The county clerk makes provisions for limiting disclosure of the supplemental information regarding the establishment of a conservatorship exclusively to persons entitled under this section.
Prob. Code § 1826, 1827.5, & 1851	Yes	Similar provisions as Prob. Code § 1821 above.
Welf. & Inst. Code § 872	No	The presiding or sole juvenile court judge may, by written order filed with the county clerk, designate the juvenile hall of any county in the state for the detention of an individual minor for a set period if there is no juvenile hall in the county or if the county's juvenile hall is dangerous or overcrowded. Since this order concerns county facilities, the county clerk should be the appropriate officer to file this order.

Welf. & Inst. Code § 15657.03	Yes	May require the county clerk to mail a copy of a protective order issued under this section to each local law enforcement agency designated by the petitioner or the attorney for the petitioner having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner. Since this is a court order, it seems that this responsibility should fall to the clerk of the court.
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